

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

JESSICA TOWNSEND and DAWN LANE  
on their own behalf, and on behalf of all  
similarly situated individuals,

Plaintiffs,

CASE NO.:

v.

EXXACT EXPRESS, INC,  
a Florida Profit Corporation

Defendants.

\_\_\_\_\_ /

**COMPLAINT & DEMAND FOR JURY TRIAL**

Plaintiffs, JESSICA TOWNSEND and DAWN LANE, on their own behalf, and on behalf of all similarly situated individuals, by and through the undersigned attorney, and sues the Defendant, EXXACT EXPRESS, INC., for failing to pay overtime wages for every hour worked, pursuant to 29 U.S.C. 216(b) (FLSA).

**NATURE OF CASE**

1. Defendant, EXXACT EXPRESS, INC., (hereinafter "EXXACT") is a logistics company located in Lakeland, Polk County, Florida.
2. As part of its enterprise, EXXACT employs employees to perform the different job functions required to operate its business.
3. These jobs include driver managers, inside sales associates and customer service positions.
4. Plaintiffs allege EXXACT violated the FLSA by failing to pay the employees occupying these positions overtime wages based on their 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. Plaintiff Dawn Lane is a resident of Hillsborough County, Florida and previously employed by Defendant and was previously employed by EXXACT as an inside sales associate and customer service representative.

6. Plaintiff Jessica Townsend is a resident of Polk County, Florida and previously employed by EXXACT as a driver manager.

7. Defendant EXXACT is a Florida corporation which operates and conducts business in, among others, Polk County, Florida and is therefore, within the jurisdiction of this Court.

8. Plaintiffs bring this FLSA collective action individually and on behalf of others similarly situated, including present and former employees of Defendant EXXACT, to recover overtime compensation, liquidated damages, and reasonable attorneys' fees and costs.

**JURISDICTION & VENUE**

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

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

11. This Court has jurisdiction and venue over this complaint as each of Defendant's violations of the FLSA complained of took place in Polk County, Florida.

**GENERAL FACTUAL ALLEGATIONS**

12. Plaintiffs worked for Defendant EXXACT at 1025 N. Chestnut Road, Lakeland, FL 33805.

13. At all material times during the last three years, Defendant EXXACT was an enterprise subject to the FLSA's provisions requiring overtime compensation.

14. At all material times, Plaintiffs and others working for Defendant EXXACT were "employees" of Defendant within the meaning of the FLSA.

15. At all material times, Defendant EXXACT was an "employer" within the meaning of the FLSA and Defendant continues to be an "employer" within the meaning of the FLSA.

16. At all material time, Defendant EXXACT was, and continues to be, an "enterprise engaged in commerce" within the meaning of the FLSA.

17. During their employment, Plaintiffs handled goods such as computers, software, communication equipment, paper, and office equipment which had traveled in interstate commerce.

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

19. Defendant EXXACT is a logistics company, moving freight inside and outside the State of Florida.

20. Plaintiff Townsend was employed as a driver manager from September 15, 2015 through January 8, 2016. As a driver manager, Plaintiff Townsend's primary tasks included assigning routes to drivers, matching loads to drivers, locating available trailers and repeatedly interfacing with customers regarding the status of specific loads in transit. Plaintiff Townsend's job duties were an integral part EXXACT's business and profitability.

21. By Plaintiff Townsend's estimates, she routinely worked 45 hours or more in a work week.

22. Plaintiff Dawn Lane was employed by EXXACT from February 16, 2015 until June 24, 2016. During her employment, Plaintiff Lane worked as both an inside sales associate and as a customer service representative. As an inside sales associate, Plaintiff Lane's job duties included generating new business leads, tracking the sales cycle, updating customers on new pricing and working internally to satisfy customer expectations. As a customer service representative, Plaintiff Lanes' job duties included appointment setting, confirming appointments and scheduling deliveries. In both roles, Plaintiff Lane's job functions were an integral part of EXXACT's business operations.

23. By Plaintiff Lane's estimates, she routinely worked over 45 hours per week while she was employed by EXXACT.

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

25. During their employment with Defendant, Plaintiffs were not paid time and one-half their regular rate of pay for all hours worked in excess of forty (40) within a work week during one or more weeks of employment.

26. Upon information and belief, the records, to the extent any exist, concerning the number of hours worked and amounts paid to Plaintiffs are in the possession and custody of Defendant.

**FIRST CAUSE OF ACTION**  
**RECOVERY OF OVERTIME COMPENSATION**

27. Plaintiff reincorporates and readopts all allegations contained within Paragraph 1-26

above.

28. Plaintiffs were 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.

29. During their employment with Defendant, Plaintiffs regularly worked overtime hours but were not paid time and one-half compensation for the same.

30. As a result of Defendant's intentional, willful, and unlawful acts in refusing to pay Plaintiffs time and one-half their regular rate of pay for each hour worked in excess of forty (40) per work week in one or more work weeks, Plaintiffs have suffered damages and are incurring reasonable attorneys' fees and costs.

31. Defendant was aware Plaintiffs performed non-exempt job duties but still refused to pay Plaintiffs overtime for hours worked over forty (40).

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

33. Defendant failed to post required FLSA informational listings as required by the FLSA.

34. Defendant's conduct was willful and in reckless disregard of the overtime requirements of the FLSA.

35. Defendant willfully violated the FLSA.

36. Plaintiffs are entitled to liquidated damages.

**WHEREFORE**, Plaintiffs demand judgment against Defendant for the payment of all overtime hours at one and one-half the regular rate of pay for the hours worked for which Defendant did not properly compensate them, 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)**

37. Plaintiffs reincorporates and readopts all allegations contained within Paragraphs 1-26 above.

38. At all times material, Defendant employed numerous other non-exempt employees who worked as driver managers, inside sales associates and customer service associates and who worked a substantial number of hours in excess of forty (40) per week.

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

40. Defendant failed to pay those individuals, who are similarly situated to Plaintiffs, 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.

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

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

**WHEREFORE**, Plaintiffs on behalf of themselves and others similarly situated, demand judgment against Defendant 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**

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

Dated this 26<sup>th</sup> day of September, 2017.

**MORGAN & MORGAN, P.A.**

**/s/ Marc R. Edelman**

Marc R. Edelman, Esq.

Fla. Bar No. 0096342

Morgan & Morgan, P.A.

201 North Franklin Street, Suite 700

Tampa, FL 33602

Telephone: 813-223-5505

Fax: 813-257-0572

Email: [MEdelman@forthepeople.com](mailto:MEdelman@forthepeople.com)

*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><b>I. (a) PLAINTIFFS</b><br/>                 JESSICA TOWNSEND and DAWN LANE on their own behalf, and on behalf of all similarly situated individuals,</p> <p>(b) County of Residence of First Listed Plaintiff _____<br/>                 (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number)<br/>                 Marc R. Edelman, Esq. 201 N. Franklin Ave.<br/>                 Morgan &amp; Morgan Tampa, FL 33602</p> | <p><b>DEFENDANTS</b><br/>                 EXXACT EXPRESS, INC,<br/>                 a Florida Profit Corporation</p> <p>County of Residence of First Listed Defendant _____<br/>                 (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p> |
|---|--|

|  |   |   |   |  |         |                       |  |   |   |                          |   |   |   |   |   |                |   |
|--|---|---|---|--|---------|-----------------------|--|---|---|--------------------------|---|---|---|---|---|----------------|---|
| <p><b>II. BASIS OF JURISDICTION</b> (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><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <p>(For Diversity Cases Only)</p> <table style="width:100%;"> <tr> <td style="width:33%;"></td> <td style="width:33%; text-align: center;">PTF DEF</td> <td style="width:33%;"></td> <td style="width:33%; text-align: center;">PTF DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4 <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2 <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5 <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3 <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6 <input type="checkbox"/> 6</td> </tr> </table> |   | PTF DEF   |  | PTF DEF | 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 |
|  | PTF DEF   |   | PTF DEF   |  |         |                       |  |   |   |                          |   |   |   |   |   |                |   |
| 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 |  |         |                       |  |   |   |                          |   |   |   |   |   |                |   |

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

| CONTRACT  | TORTS  | FORFEITURE/PENALTY   | BANKRUPTCY  | OTHER STATUTES  |   |
|---|--|--|---|---|---|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><p><b>PERSONAL PROPERTY</b></p> <input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 690 Other  | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157  | <input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY   | CIVIL RIGHTS   | PRISONER PETITIONS   | LABOR   | PROPERTY RIGHTS   |   |
| <input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property  | <input type="checkbox"/> 440 Other Civil Rights<br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 448 Education  | <p><b>Habeas Corpus:</b></p> <input type="checkbox"/> 463 Alien Detainee<br><input type="checkbox"/> 460 Motions to Vacate Sentence<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><p><b>Other:</b></p> <input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition<br><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement   | <input checked="" type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Management Relations<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 751 Family and Medical Leave Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Employee Retirement Income Security Act | <input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark  |   |
|   |  |  | IMMIGRATION   | SOCIAL SECURITY   |   |
|   |  |  | <input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 465 Other Immigration Actions   | <input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g)) |   |
|   |  |  |   | FEDERAL TAX SUITS   |   |
|   |  |  |   | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><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 F.P. _____ | 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: [Class Action Claims Exxact Express' Pay Practices Aren't Exactly Legal](#)

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