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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

CASE NO.:
6:18-cv-459-Orl-28DCI

RONALD WARD, individually and on
behalf of all those similarly situated,

Collective Action

Plaintiff,

vs.

FLORIDA BC HOLDINGS, LLC d/b/a SYNERGY
EQUIPMENT,

Defendant.

_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff, RONALD WARD (“Mr. Ward”), individually, as Class Representative, and on behalf of all other similarly situated employees, by and through his undersigned counsel files his individual claim in Count I and a Representative Action in Count II of this Complaint against Defendant, FLORIDA BC HOLDINGS, LLC d/b/a SYNERGY EQUIPMENT (“Synergy”), and states as follows:

I. INTRODUCTION

1. Mr. Ward brings his cause of action raising an individual claim for unpaid overtime wages pursuant 29 U.S.C. § 207 (overtime provisions of the Federal Fair Labor Standards Act (“FLSA”)) and a Representative Action pursuant to 29 U.S.C. § 216(b) (authorizing representative actions under the FLSA) seeking to represent a class of employees denied unpaid overtime pursuant to the FLSA.

2. The FLSA prevents the exploitation of a class of workers who are in an unequal position with respect “to bargaining power and are thus relatively defenseless against the denial of a living wage is not only detrimental to their health and well being but casts a direct burden for their support upon the community. What these workers lose in wages the taxpayers are called upon to pay.” *West Coast Hotel Co. v. Parrish*, 300 U.S. 379, 399 (1937)(Hughes, C.J).

3. Synergy utilized its unequal bargaining power to render defenseless Mr. Ward, individually and all other similarly situated employees, against the denial of the living wage they are entitled to receive and protected by 29 U.S.C. § 207.

II. JURISDICTION AND VENUE

4. This Court has jurisdiction to hear this Complaint pursuant to 28 U.S.C. § 1331.

5. Venue is proper in this Court under 28 U.S.C. § 1391(b).

III. THE PARTIES

6. Mr. Ward was an employee of Synergy within the meaning of the FLSA.

7. Mr. Ward was employed as a Sales Coordinator by Synergy from approximately March 2016 to September 2017.

8. As a sales coordinator, Mr. Ward was paid a salary and commissions.

9. As a sales coordinator, Mr. Ward’s job duties included, but were not limited to, working the inside counter of Synergy’s facility.

10. Synergy maintains and operates approximately eleven (11) facilities throughout Florida and two (2) in Georgia.

11. Synergy provides heavy and compact rental equipment, sales, and services for contractors and developers.

12. Mr. Ward performed work for Synergy at its facilities in Daytona Beach, Jacksonville, and St. Augustine Florida locations.

13. At all times relevant to his employment, Mr. Ward regularly used the instrumentalities of interstate commerce while performing his work. At all times relevant to his employment, Mr. Ward also regularly used the channels of commerce while performing his work.

14. Synergy is an "employer" as defined by 29 U.S.C. § 203(d). Synergy has employees subject to the provisions of the FLSA, 29 U.S.C. § 207, in the facilities where Mr. Ward performed work.

15. Synergy has employed two or more persons, including Mr. Ward, "engaged in commerce or in the production of goods for commerce," or has "had employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by a person," as defined by 29 U.S.C. § 203(s)(1)(A)(i).

16. Mr. Ward avers that at all times relevant to the violations of the Fair Labor Standards Act, Synergy was an enterprise whose annual gross volume of sales made or business done was not less than \$500,000, in accordance with 29 U.S.C. § 203(s)(1)(A)(ii).

17. Mr. Ward has retained LaBar & Adams, P.A. to represent him and the Class in this matter and has agreed to pay said firm a reasonable attorney's fee and costs for its services.

IV. FACTUAL ALLEGATIONS

18. Synergy provides heavy and compact rental equipment, sales, and services for contractors and developers.

19. At all times relevant to the violation of the FLSA, Synergy was an enterprise engaged in commerce or in the production of goods for commerce.

20. Mr. Ward performed work at Synergy at its facilities in Daytona Beach, Jacksonville, and St. Augustine, Florida locations.

21. Throughout his employment, Mr. Ward worked numerous workweeks where his hours exceeded forty but he was not paid time-and-a-half for each overtime hour worked.

22. Mr. Ward worked numerous weeks in which he was not paid time-and-a-half for each overtime hour worked because Synergy had misclassified Mr. Ward as an employee exempt from the FLSA.

23. Mr. Ward, as well as similarly situated employees, worked numerous weeks in which they were not paid time-and-a-half for each overtime hour worked because Synergy misclassified their position as exempt from the FLSA.

24. During Mr. Ward's employment, Synergy reclassified him as non-exempt from the FLSA and commenced paying him overtime.

25. Synergy failed to pay Mr. Ward proper overtime once he was reclassified by failing to include all hours worked and failing to pay him at the correct overtime rate.

26. Synergy had knowledge that Mr. Ward as well as other similarly situated employees, were working overtime without proper compensation.

27. Synergy failed to make a good faith effort to determine if Mr. Ward and similarly situated employees were compensated appropriately pursuant to the FLSA.

28. Synergy failed to maintain and keep accurate time records as required by the Fair Labor Standards Act. *See e.g.* 29 U.S.C. §§ 211(c); 215(a); 29 C.F.R. § 516, *et. al.*

29. Synergy also failed to post the required notice pursuant to the Fair Labor Standards Act.

30. Synergy's unlawful compensation practices are in willful disregard of the rights of Mr. Ward and other similarly situated employees.

31. Synergy is currently a Defendant in a collective action pursuant to the FLSA pending in this Court. *See Jay E. Reese, individually and on behalf of all those similarly situated v. Florida BC Holdings LLC., d/b/a Synergy Equipment*, Case No.: 6:17-cv-1574-CEM-GJK (M.D. Fla. 2017).

V. COLLECTIVE ACTION ALLEGATIONS

32. Mr. Ward, as Class Representative, brings Count II of his action on behalf of himself and on behalf of similarly situated employees. Specifically, Mr. Ward brings the class' claim under the Fair Labor Standards Act as a collective action, and will request the Court to grant conditional class certification under 29 U.S.C. § 216(b).

33. Mr. Ward, as Class Representative, will seek class certification of all employees of Synergy who (1) are or were employed by Synergy as "Sales Coordinators" during the preceding three years; (2) were misclassified as exempt from the FLSA; and (3) worked more than forty hours in a work week without being paid proper overtime compensation.

34. Mr. Ward, as Class Representative, will seek class certification of all employees of Synergy who: (1) are or were employed by Synergy as “Sales Coordinators” since November 2016; (2) worked more than forty hours in a work week; and (3) did not receive proper overtime because (a) Synergy failed to divide all weekly remuneration by all hours worked to obtain Sales Coordinators’ regular rate of pay and (b) failed to include all hours worked when calculating overtime owed.

35. While working for Synergy, Mr. Ward and the similarly situated employees, were subject to Synergy’s pattern and standard practice of misclassifying employees and denying proper overtime compensation to its Sales Coordinators.

COUNT I
PLAINTIFF, RONALD WARD’S INDIVIDUAL CLAIM
FOR VIOLATIONS OF THE OVERTIME PROVISION OF
THE FAIR LABOR STANDARDS ACT

36. Plaintiff, Mr. Ward, re-alleges and incorporates herein the allegations contained in paragraphs 4-30 above.

37. Mr. Ward was employed as a “Sales Coordinator” by Synergy from approximately March 2016 to September 2017.

38. From approximately March 2016 to September 2017, Synergy repeatedly and willfully violated § 7 and § 15 of the Fair Labor Standards Act by failing to compensate Mr. Ward at a rate not less than one and one-half times the regular rate at which he was employed for workweeks longer than forty (40) hours. Specifically, Plaintiff worked numerous weeks in excess of forty (40) hours a week, yet was not compensated for all work in excess of forty (40) hours at a rate not less than one and one-half times the regular rate at which he was employed.

39. Synergy willfully failed to maintain and keep accurate time records as required by the Fair Labor Standards Act.

40. Synergy failed to post the required notice pursuant to the Fair Labor Standards Act.

WHEREFORE, Mr. Ward demands a judgment against Synergy for the following:

- (a) Unpaid overtime wages found to be due and owing;
- (b) An additional equal amount equal to the unpaid overtime wages found to be due and owing as liquidated damages;
- (c) Prejudgment interest;
- (d) A reasonable attorney's fee and costs; and,
- (e) Such other relief as the Court deems just and equitable.

JURY TRIAL DEMAND

Mr. Ward demands a jury trial on all issues contained in Count I.

COUNT II
COLLECTIVE ACTION BY CLASS REPRESENTATIVE,
RONALD WARD, FOR VIOLATIONS OF THE OVERTIME PROVISION OF
THE FAIR LABOR STANDARDS ACT

41. Mr. Ward, as Class Representative, re-alleges and incorporates herein the allegations contained in paragraphs 4-35 above.

42. Throughout the employment of the Class Representative, Mr. Ward and all other similarly situated employees, the Defendant, Synergy, repeatedly and willfully violated § 7 and § 15 of the Fair Labor Standards Act by failing to compensate the Class Representative and all other similarly situated employees, at a rate not less than one and

one-half times the regular rate at which they were employed for workweeks longer than forty (40) hours.

43. Specifically, Class Representative, Mr. Ward, and all other similarly-situated “Sales Coordinators,” worked numerous weeks throughout their employment in excess of forty (40) hours a week, yet were not compensated for all work in excess of forty (40) hours at a rate not less than one and one-half times the regular rate at which they were employed.

44. Synergy failed to maintain and keep accurate time records as required by the Fair Labor Standards Act. *See e.g.* 29 U.S.C. §§ 211(c); 215(a); 29 C.F.R. § 516, *et. al.*

45. Synergy failed to post the required notice pursuant to the Fair Labor Standards Act.

WHEREFORE, Class Representative, Mr. Ward on behalf of himself and similarly situated employees, demands judgment against Synergy for the following:

- (a) Unpaid overtime wages found to be due and owing;
- (b) An additional equal amount equal to the unpaid overtime wages found to be due and owing as liquidated damages;
- (c) Prejudgment interest;
- (d) Reasonable attorney’s fee and costs; and,
- (e) Such other relief as the Court deems just and equitable.

JURY TRIAL DEMAND

Class Representative, Mr. Ward, on behalf of himself and similarly situated employees, demands a jury trial on all issues contained in Count II.

Respectfully submitted,



Dated: 3/24/18

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JS 44 (Rev. 09/11)

CIVIL COVER SHEET

The JS 44 civil coversheet 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

RONALD WARD, individually and on behalf of all those similarly situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
Scott C. Adams, Esq., LaBar & Adams, P.A.
2300 E. Concord Street, Orlando, Florida 32803
(407) 835-8968

DEFENDANTS

FLORIDA BC HOLDINGS, LLC d/b/a SYNERGY EQUIPMENT

County of Residence of First Listed Defendant _____
(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
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 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)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | 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 checked="" 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 <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 <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <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	PERSONAL INJURY <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 - Med. Malpractice	<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 PERSONAL PROPERTY <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 LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. 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 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XV1 <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	IMMIGRATION		
<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	<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	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <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	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions		

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):
29 U.S.C. Sections 201, et. seq.

Brief description of cause:
Unpaid wages under the Fair Labor Standards Act

VII. REQUESTED IN COMPLAINT:

- CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
- DEMAND \$ _____
- CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 3/26/18 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: [Synergy Equipment Facing Sales Coordinators' Wage and Hour Suit](#)
