

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION**

**CHRISTOPHER SANDERS,**

**Plaintiff,**

**CASE NO.:**

**v.**

**EMERALD COAST DELIVERY, INC.,  
a Florida Profit Corporation, and  
ROBERT UNDERWOOD, individually,**

**Defendants.**

---

**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff, CHRISTOPHER SANDERS (“Plaintiff”), by and through undersigned counsel, files this Complaint against Defendants, EMERALD COAST DELIVERY, INC. (“EMERALD COAST”), a Florida Profit Corporation, and ROBERT UNDERWOOD (“UNDERWOOD”), individually, (collectively referred to as “Defendants”) for violations of the Fair Labor Standards Act, as amended, 29 U.S.C. § 216(b) (hereinafter as “FLSA”).

**JURISDICTION AND VENUE**

1. Jurisdiction in this Court is proper as the claims are brought pursuant to the Fair Labor Standards Act, as amended (29 U.S.C. §201, et seq., hereinafter called the “FLSA”) to recover unpaid overtime wages, an additional equal amount as liquidated damages, obtain declaratory relief, and reasonable attorney’s fees and costs.
2. The jurisdiction of the Court over this controversy is based upon 29 U.S.C. §216(b).
3. This Court has the authority to grant declaratory relief pursuant to the FLSA and the Federal Declaratory Judgment Act (“DJA”), 28 U.S.C. §§ 2201-02.

4. Venue is proper as Plaintiff worked for Defendants in Escambia County, Florida, and the actions giving rise to these claims arose in Escambia County, Florida.

**PARTIES**

5. At all times material hereto, Plaintiff was a resident of Escambia County, Florida.

6. At all times material hereto, EMERALD COAST was, and continues to be, a business operating in Escambia County, Florida, at which Plaintiff worked.

7. At all times hereto, UNDERWOOD was, and continues to be, a resident of Escambia County, Florida.

8. At all times material hereto, UNDERWOOD operated EMERALD COAST.

9. At all times material hereto, UNDERWOOD regularly held and/or exercised the authority to hire and fire employees of EMERALD COAST.

10. At all times material hereto, UNDERWOOD regularly held and/or exercised the authority to determine the work schedules for the employees of EMERALD COAST.

11. At all times material hereto, UNDERWOOD regularly held and/or exercised the authority to control the finances and operations of EMERALD COAST.

12. By virtue of having regularly held and/or exercised the authority to: (a) hire and fire employees of EMERALD COAST; (b) determine the work schedules for the employees of EMERALD COAST; and (c) control the finances and operations of EMERALD COAST, UNDERWOOD is an employer as defined by 29 U.S.C. 201 *et. seq.*

13. At all times material hereto, Plaintiff was “engaged in commerce” within the meaning of §6 and §7 of the FLSA.

14. At all times material hereto, Plaintiff was an “employee” of Defendants within

the meaning of the FLSA.

15. At all times material hereto, EMERALD COAST was, and continues to be, an “employer” within the meaning of the FLSA.

16. At all times material hereto, EMERALD COAST was, and continues to be, “an enterprise engaged in commerce,” within the meaning of the FLSA.

17. Based upon information and belief, the annual gross revenue of Defendants was in excess of \$500,000.00 per annum, or the prorated amount for same during the time Defendants have been open for business, during the relevant time periods.

18. At all times relevant hereto, Defendants were primarily engaged in delivering packages throughout the United States, and in Escambia County, Florida.

19. At all times relevant hereto, Defendants had more than two employees.

20. At all times material hereto, Defendants had two (2) or more employees handling, selling, or otherwise working on goods or materials that had been moved in or produced for commerce.

21. At all times hereto, Plaintiff was “engaged in commerce” and subject to individual coverage of the FLSA.

22. At all times hereto, Plaintiff was engaged in the production of goods for commerce, or providing services in commerce, and subject to the individual coverage of the FLSA.

23. At all times material hereto, the work performed by the Plaintiff was directly essential to the business performed by Defendants.

#### **STATEMENT OF FACTS**

24. Defendants hired Plaintiff to work as a non-exempt day rate paid Laborer/Driver

on June 1, 2017, and employed Plaintiff through December 26, 2017, at a daily rate of \$130.00 per day.

25. During Plaintiff's employment, Plaintiff regularly worked in excess of forty (40) hours per week for Defendants.

26. Specifically, Plaintiff regularly worked in excess of eighty (80) hours per week and was not properly compensated time and one-half Plaintiff's regular rate for each hour worked in excess of forty (40) hours.

27. Plaintiff should have been compensated half-time Plaintiff's regular rate of pay **for all hours** that Plaintiff worked in excess of forty (40) hours per week, as required by the FLSA throughout his employment.

28. Defendants violated Title 29 U.S.C. §207 in that:

- a. Plaintiff worked in excess of forty (40) hours in one or more workweeks for Plaintiff's period of employment with Defendants;
- b. No payments or provisions for payment have been made by Defendants to properly compensate Plaintiff at the statutory rate of half time Plaintiff's regular rate for all hours worked in excess of forty (40) hours per work week, as provided by the FLSA; and
- c. Defendants failed to maintain proper time records as mandated by the FLSA.

29. Plaintiff estimates his FLSA damages to be, as follows: Plaintiff was paid \$130.00 per day, and his overtime rate should have been \$4.88 per hour ( $\$130/\text{day} \times 6 \text{ days per week} = \$780 \text{ per week} / 80 \text{ hours per week} = \$9.75 \text{ per hour} / 2 \text{ (half-time rate)} = \$4.875 \text{ per hour}$ ). As Defendants paid Plaintiff a day rate of \$130.00 for all hours worked, Plaintiff is owed

\$4.875 per overtime hour, for each of these unpaid overtime hours, multiplied by his average stolen overtime hours worked per week of forty (40) hours per week, totaling **\$195.00** per work week ( $\$4.875 \times 40$  OT hours per week). The relevant statute of limitations is 29 weeks:  $\$195$  per week  $\times$  29 weeks = **\$5,655.00** in unliquidated damages, and **\$11,310.00** in liquidated damages.

30. Plaintiff is also seeking attorneys' fees and costs pursuant to the FLSA.

31. Prior to the filing of this lawsuit, Defendants did not consult with an attorney to evaluate whether Plaintiff's actual job duties and pay structure rendered him exempt from recovering payment for all overtime worked under the FLSA.

32. Prior to the filing of this lawsuit, Defendants did not consult with the DOL to evaluate whether Plaintiff's actual job duties and pay structure rendered him exempt from recovering payment for all overtime worked under the FLSA.

33. Prior to the filing of this lawsuit, Defendants did not consult with an accountant to evaluate whether Plaintiff's actual job duties and pay structure rendered him exempt from recovering payment for all overtime worked under the FLSA.

34. Based on the allegations in Paragraphs 31-33 above, Plaintiff is entitled to liquidated damages as Defendants has no objective or subjective good faith belief that its pay practices were in compliance with the FLSA.

35. Plaintiff has retained the law firm of RICHARD CELLER LEGAL, P.A. to represent Plaintiff in the litigation and has agreed to pay the firm a reasonable fee for its services.

**COUNT I**  
**VIOLATION OF 29 U.S.C. §207 OVERTIME COMPENSATION**

36. Plaintiff re-alleges and reavers Paragraphs 1 through 35 of the Complaint, as if

fully set forth herein.

37. During Plaintiff's employment, Plaintiff worked in excess of the forty (40) hours per week for which Plaintiff was not compensated at the statutory rate of half-time Plaintiff's regular rate of pay for all hours worked.

38. Plaintiff was entitled to be paid at the statutory rate of half-time Plaintiff's regular rate of pay for those hours worked in excess of forty (40) hours.

39. Defendants failed to pay Plaintiff half-time Plaintiff's regular rate of pay for all hours worked in excess of forty (40) per week in violation of the FLSA.

40. Defendants' actions were willful and/or showed reckless disregard for the provisions of the FLSA, as evidenced by its failure to compensate Plaintiff at the statutory rate of half-time Plaintiff's regular rate of pay for the hours worked in excess of forty (40) hours per week when it knew, or should have known, such was, and is due.

41. Due to the intentional, willful, and unlawful acts of Defendants, Plaintiff suffered, and continues to suffer, damages and lost compensation for time worked over forty (40) hours per week, plus liquidated damages.

42. Plaintiff is entitled to an award of reasonable attorney's fees and costs pursuant to 29 U.S.C. §216(b).

WHEREFORE, Plaintiff respectfully requests that judgment be entered in his favor against Defendants:

- a. Declaring, pursuant to the FLSA, that the acts and practices complained of herein are in violation of the maximum hour provisions of the FLSA;
- b. Awarding Plaintiff overtime compensation in the amount due to him for Plaintiff's time worked in excess of forty (40) hours per work week;

- c. Awarding Plaintiff liquidated damages in an amount equal to the overtime award;
- d. Awarding Plaintiff reasonable attorney's fees and costs and expenses of the litigation pursuant to 29 U.S.C. §216(b);
- e. Awarding Plaintiff pre-judgment interest; and
- f. Ordering any other further relief, the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

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

DATED this 30<sup>th</sup> day of May 2018.

/s/ Noah E. Storch  
Noah E. Storch, Esquire  
Florida Bar No. 0085476  
Email: [noah@floridaovertimelawyer.com](mailto:noah@floridaovertimelawyer.com)  
RICHARD CELLER LEGAL, P.A.  
7450 Griffin Road, Suite 230  
Davie, Florida 33314  
Telephone: (866) 344-9243  
Facsimile: (954) 337-2771

*Attorneys for Plaintiff*