

JURISDICTION AND VENUE

1. Subject matter jurisdiction is proper under 29 U.S.C. § 216(b) and 28 U.S.C. § 1331 and § 1332.
2. Jurisdiction over Plaintiff's MWHL and MWPCCL claims is proper under 28 U.S.C. § 1367 and § 1332.
3. Venue in this Court is proper under 28 U.S.C. § 1391.

PARTIES

4. Plaintiff is an individual residing in Waldorf, Maryland (Charles County).
5. Defendant is a corporate entity registered to do business in Maryland and headquartered in Waldorf, Maryland (Charles County).
6. Defendant employs individuals, including Plaintiff, engaged in commerce or in the production of goods for commerce and/or handling, selling, or otherwise working on goods or materials that have been moved in or produced in commerce by any person.
7. Defendant is an employer covered by the FLSA, MWHL and/or MWPCCL.

FACTS

8. According to its website, Defendant "is a full-service company specializing in Security Guard Services, Investigations, and Personal or Executive Protection."
9. From approximately October 2018 until February 1, 2019, Plaintiff was employed as a security guard by Defendant.
10. Throughout her employment with Defendant, Plaintiff was paid on an hourly basis of approximately \$14.00/hr. and was not exempt from the mandates of the FLSA and/or the MWHL.

11. Throughout her employment with Defendant, Plaintiff regularly worked in excess of 40 hours in a single seven-day workweek.

12. However, when Plaintiff worked over 40 hours in a single seven-day workweek, Defendant failed to pay her overtime premium compensation equal to one and one-half times her regular hourly rate for her overtime work. Rather, Defendant would only pay Plaintiff her “straight-time hourly rate” of \$14.00/hr. unless she worked over 80 hours in a *two-week* (or 14 day) period or if she worked on a federal holiday.

13. In addition to Plaintiff, Defendant has employed numerous other individuals who are paid on an hourly basis and have been classified as non-exempt from the FLSA and MWHL.

14. Like Plaintiff, Defendant’s other non-exempt hourly employees: (a) have regularly worked more than 40 hours in a single seven-day workweek; (b) did not receive overtime premium compensation when they worked over 40 hours in a single seven-day workweek; and (c) only received overtime premium pay when they worked over 80 hours in a two-week (or 14 day) period or on a federal holiday.

15. As a result of these common business practices, Defendant has failed to compensate Plaintiff and similarly situated non-exempt hourly employees the legally mandated overtime premium compensation for hours worked over 40 in a single seven-day workweek.

16. In failing to pay Plaintiff and other non-exempt hourly employees overtime premium compensation for hours worked over 40 in a single workweek, Defendant has acted willfully and with reckless disregard of clearly applicable FLSA, MWHL, and MWPCCL provisions.

COLLECTIVE ACTION ALLEGATIONS

17. Plaintiff brings this lawsuit pursuant to 29 U.S.C. § 216(b) as a collective action on behalf of the following collective:

All individuals who worked for Defendant and were paid on an hourly basis since August 28, 2016.

18. Plaintiff desires to pursue her FLSA claims on behalf of any individuals who opt-in to this action pursuant to 29 U.S.C. § 216(b).

19. Plaintiff and the above collective are “similarly situated,” as that term is defined in 29 U.S.C. § 216(b), because, *inter alia*, all proposed class members worked pursuant to Defendant’s previously described common business practices. Resolution of this action requires inquiry into many common facts, including, *inter alia*, Defendant’s common compensation, timekeeping, and payroll practices.

CLASS ACTION ALLEGATIONS

20. Plaintiff brings her MWHL and WMPCL claims pursuant to Federal Rule of Civil Procedure 23 on behalf of:

All individuals who worked for Defendant in the State of Maryland and were paid on an hourly basis since August 28, 2016.

21. Upon information and belief, Defendant has employed approximately 150 other individuals as hourly non-exempt employees during the relevant period and, as such, is so numerous that joinder of all class members is impracticable.

22. Plaintiff is a class member, and her legal claim is typical of the claims of other class members. Plaintiff has no interests that are antagonistic to or in conflict with the interests of other class members.

23. Plaintiff will fairly and adequately represent the class and their interests, and she has retained competent and experienced counsel who will effectively represent the interests of the entire class.

24. Questions of law and fact are common to the class and include, *inter alia*, whether Defendant's standardized policy of only paying overtime premium pay to Plaintiff and other hourly employees when they exceed 80 hours in a two-week (14 day) period instead 40 hours in a single seven-day workweek violates the MWHL and the MWPCCL.

25. Class certification is appropriate under Federal Rule of Civil Procedure 23(b)(3) because common questions of law and fact predominate over any questions affecting only individual class members and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. The damages suffered by individual class members are small compared to the expense and burden of individual prosecution of this litigation. In addition, class certification is superior because, *inter alia*, it will obviate the need for unduly duplicative litigation, which might result in inconsistent judgments about Defendant's business practices.

COUNT I
(Alleging FLSA Violations)

26. All previous paragraphs are incorporated as though fully set forth herein.
27. Plaintiff and the collective are employees entitled to the FLSA's protections.
28. Defendant is an employer covered by the FLSA.
29. The FLSA entitles employees to overtime compensation "not less than one and one-half times" their regular pay rate for all hours worked over 40 in a single seven-day workweek. See 29 U.S.C. § 207(a)(1); 29 C.F.R. §§ 778.103-105.

30. Defendant violated the FLSA by failing to pay Plaintiff and the collective any compensation, including overtime premium compensation, for hours worked over 40 in a single seven-day workweek.

31. In violating the FLSA, Defendant acted willfully and with reckless disregard of clearly applicable FLSA provisions and, thus, has committed a willful violation of the FLSA.

COUNT II
(Alleging Violations of the MWHL)

32. All previous paragraphs are incorporated as though fully set forth herein.

33. The MWHL requires that covered employees receive “overtime wage of at least 1.5 times the usual hourly wage” for hours worked over 40 in a single week.” See MD. CODE ANN. Labor and Employment Art. § 3-415(a) *et seq.*.

34. Plaintiff and other class members are covered employees entitled to the MWHL’s protections.

35. Defendant is an employer covered by the MWHL.

36. Defendant violated the MWHL by failing to compensate Plaintiff and class members for all hours worked and by failing to pay Plaintiff and class members the legally mandated overtime premium.

37. In violating the MWHL, Defendant acted willfully and with reckless disregard of clearly applicable MWHL provisions.

COUNT III
(Alleging Violations of the MWPCCL)

38. All previous paragraphs are incorporated as though fully set forth herein.

39. Defendant is and/or are the employers of Plaintiff and class members for purposes of the MD. CODE ANN. Labor and Employment Art. § 3-501 *et seq.*.

40. Defendant made unlawful deductions from the wages of Plaintiff and class members by failing to pay them all wages owed in violation of MD. CODE ANN. Labor and Employment Art. § 3-503.

41. Defendant had a duty to pay whatever wages were due to Plaintiff and class members on a regular basis. Defendant failed to uphold this duty in violation of MD. CODE ANN. Labor and Employment Art. § 3-502 and §3-505. This failure to properly compensate its employees includes wages owed at the overtime rate of time and half the regular rate under both the FLSA and the MWHL are in contravention of the MWPCCL. *See* MD. CODE ANN. Labor and Employment Art. § 3-502 and §3-505.

42. Defendant's failure to comply with obligations under the Maryland Labor and Employment Code was willful, intentional, not in good faith, and not because of a *bona fide* dispute.

43. Defendant's conduct constitutes violations of the MWPCCL, MD. CODE ANN. Labor and Employment Art. §§ 3-501, *et seq.*, subjecting it to the MWPCCL's treble damages provisions under § 3-507.1.

JURY TRIAL DEMANDED

Plaintiff demands a jury trial as to all claims so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks the following relief:

A. An order permitting this litigation to proceed as a collective action pursuant to 29 U.S.C. § 216(b);

B. Prompt notice, pursuant to 29 U.S.C. § 216(b), of this litigation to all potential collective members;

- C. An order certifying the proposed class pursuant to Fed. R. Civ. P. 23.
- D. Liquidated damages and penalties to the fullest extent permitted under the law;
- E. Litigation costs, expenses, and attorneys' fees to the fullest extent permitted under the law; and
- F. Such other and further relief as this Court deems just and proper.

Date: August 28, 2019

/s/ Brian J. Markovitz
Brian J. Markovitz, Esq. (Bar No. 15859)
JOSEPH, GREENWALD & LAAKE, P.A.
6404 Ivy Lane, Suite 400
Greenbelt, MD 20770
Phone: (301) 220-2200
bmarkovitz@jgllaw.com

R. Andrew Santillo, Esq.
(*pro hac vice* admission anticipated)
WINEBRAKE & SANTILLO, LLC
Twining Office Center, Suite 211
715 Twining Road
Dresher, PA 19025
Phone: (215) 884-2491
asantillo@winebrakelaw.com

Counsel for Plaintiff

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

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

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, 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)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 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)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

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 - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Brief description of cause:

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 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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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 seven 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 – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- 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.

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: