

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

**MATHEW ANEMANNA, on behalf of
himself and all others similarly situated,**

Plaintiff,

Case No.:

v.

ELIOT MANAGEMENT GROUP, LLC,

Defendant.

_____ /

COLLECTIVE ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, MATHEW ANEMANNA, on behalf of himself and all others similarly situated, hereby sues Defendant, ELIOT MANAGEMENT GROUP, LLC (hereinafter "ELIOT") and states as follows:

INTRODUCTION

This is an action brought pursuant to the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et. seq.* ("FLSA") and Section 448.08, Florida Statutes to recover minimum wages, liquidated damages and unpaid wages owed to Plaintiff, and all other current and former employees of Defendant who are similarly situated.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331 and 1441(b).
2. Venue lies within the United States District Court for the Middle District of Florida, Tampa Division because a substantial part of the events giving rise to this claim occurred in this Judicial District and is therefore proper pursuant to 28 U.S.C. 1391(b).

PARTIES

3. Defendant, ELIOT, is a Foreign Limited Liability Company authorized and doing business in this Judicial District.

4. Defendant is a covered employer under the Fair Labor Standards Act.

5. Plaintiff, MATHEW ANEMANNA, is an adult and a resident of Hillsborough County, Florida.

6. Plaintiff was an employee of Defendant pursuant to 29 U.S.C. § 203(e)(2) and Section 448.08, Florida Statutes, Defendant was Plaintiff's employer within the meaning of 29 U.S.C. § 203(d) and Section 448.08, Florida Statutes, and Defendant employed Plaintiff within the meaning of 29 U.S.C. § 203(g) and Section 448.08, Florida Statutes.

FACTUAL ALLEGATIONS

7. Plaintiff was employed by Defendant from approximately February 14, 2018 to June 1, 2018. At all times material to this case, Plaintiff worked for Defendant as a Sales Representative.

8. Plaintiff was a full-time employee and was compensated on a commissions basis.

9. When Plaintiff was hired by Defendant, he was promised "up-front commissions"; however, Defendant never paid Plaintiff an up-front commission, nor did Defendant compensate Plaintiff at all for the first few days of mandatory training that Plaintiff attended for Defendant.

10. As a Sales Representative, Plaintiff was required to arrive at the office each day by 8:00 a.m.; cold call at least seventy-five (75) small and large businesses from a list provided

to him until 12:00 p.m. and to knock on at least twenty-five (25) doors each day in an attempt to sell merchant services/credit card processing.

11. Plaintiff was supposed to be paid his commission by Defendant once an account was sold and installed; however, Defendant repeatedly failed to pay Plaintiff the commissions he earned.

12. Additionally, Defendant routinely failed to pay Plaintiff the statutory minimum wage for several of the weeks in which Plaintiff was employed by Defendant. For example, there were several weeks in which Plaintiff was not compensated at all and other weeks in which the commissions paid to Plaintiff did not reach the statutory minimum wage when divided by the hours worked by Plaintiff

13. Defendant employed numerous Sales Representatives who performed similar work as Plaintiff. In other words, Defendant employed and continues to employ similarly situated Sales Representatives.

14. Plaintiff, and all other similarly situated Sales Representatives, are/were regularly earning less than the minimum wage required to be paid to employees under the required FLSA.

15. Plaintiff has retained the services of Florin Gray Bouzas Owens, LLC and is obligated to pay his legal counsel a reasonable fee for their services.

COUNT I
(FAIR LABOR STANDARDS ACT – MINIMUM WAGE)

16. Plaintiff, MATHEW ANEMANNA, re-alleges paragraphs one (1) through fifteen (15) as though set forth fully herein.

17. At all times material hereto, Plaintiff was paid structured commissions only.

18. Plaintiff regularly earned less than the statutory minimum wage required to be paid to employees under the required FLSA.

19. At all times material, Defendant failed to comply with the FLSA, in that Plaintiff should have been paid at no less than the minimum wage rate.

20. Defendant's failure to pay Plaintiff the required wage was intentional and willful.

21. As a direct and legal consequence of Defendant's unlawful acts, Plaintiff has suffered damages and has incurred, or will incur, costs and attorneys' fees in the prosecution of this matter.

WHEREFORE, Plaintiff prays for:

- (a) all legal and equitable relief allowed by law including judgment against Defendant for minimum wage compensation;
- (b) prejudgment interest;
- (c) post judgment interest;
- (d) payment of reasonable attorneys' fees and costs incurred in the prosecution of this claim;
- (e) adjudication on the merits of the case; and
- (f) such other relief as the court may deem just and proper.

COUNT II
FAIR LABOR STANDARDS ACT - COLLECTIVE ACTION

22. Plaintiff, MATHEW ANEMANNA, realleges and incorporates paragraphs one (1) through twenty-one (21) as though set forth fully herein.

23. The claim for violation of the FLSA is brought pursuant to 29 U.S.C. § 216(b) for all claims asserted by Plaintiff, on behalf of himself and all others similarly situated, because Plaintiff's claims are similar to the claims of the members of the prospective class.

24. At all times material, Defendant failed to comply with 29 U.S.C. § 201 *et seq.*, in that individuals similarly situated to Plaintiff regularly made less than the minimum wage required to be paid to employees under the required FLSA.

25. Plaintiff, and all others similarly situated, allege violations of the FLSA on behalf of all persons who were, are, or will be employed by Defendant in the Sales Representative position, or similar positions during the applicable statute of limitations, who have regularly made less than the minimum wage required to be paid to employees under the required FLSA.

26. The putative class members are current, former, and future Sales Representatives of Defendant who regularly made less than the minimum wage required to be paid to employees under the required FLSA during the last three (3) years of their employment.

27. Treatment of this case as a collective action is proper because all putative class members were subject to the same policies and practices by Defendant related to the work performed by Plaintiff and others similarly situated.

28. The names and addresses of the putative class members are available from Defendant for the purpose of providing notice to prospective class members in a form and manner to be approved by the Court.

29. Defendant's failure to pay such similarly situated individuals the required overtime pay was intentional and willful.

30. As a direct and legal consequence of Defendant's 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, MATHEW ANEMANNA, individually and on behalf of all others similarly situated, respectfully requests all legal and equitable relief allowed by law including:

- (a) Designation of this action as a collective action on behalf of Plaintiff and all others similarly situated;
- (b) Judgment against Defendant for minimum wage violations, liquidated damages, and prejudgment interest;
- (c) Payment of reasonable attorneys' fees and costs incurred in the prosecution of this claim;
- (d) An adjudication on the merits of the case; and
- (e) Such other relief as the court may deem just and proper.

**(UNPAID WAGES, SECTION 448.08, FLORIDA STATUTES –
AS TO PLAINTIFF, MATHEW ANEMANNA)**

31. Plaintiff, MATHEW ANEMANNA, realleges paragraphs one (1) through fifteen (15) as though set forth fully herein.

32. Plaintiff earned wages over the course of his employment, which remain unpaid by Defendant. Specifically, Defendant failed to compensate Plaintiff for commissions earned during his employment with Defendant.

33. Defendant, despite Plaintiff's reasonable attempts to obtain payment of these

earned monies, has failed and refused to make payments as required by Chapter 448.08, Florida Statutes.

34. Plaintiff has retained undersigned counsel and is obligated to pay them a reasonable fee for their services.

WHEREFORE, Plaintiff, MATHEW ANEMANNA, demands judgment for back pay, interest, attorneys' fees and costs and for such other relief to which Plaintiff may be justly entitled.

DEMAND FOR JURY TRIAL

35. Plaintiff, MATHEW ANEMANNA, on behalf of himself and all others similarly situated, demands a trial by jury.

Dated this 5th day of July, 2018.

FLORIN GRAY BOUZAS OWENS, LLC

/s/ Gregory A. Owens

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Trial Attorneys for Plaintiff

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 THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

MATHEW ANEMANNA, on behalf of himself and all others similarly situated,

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

(c) Attorney's (Firm Name, Address, and Telephone Number)

Florin Gray Bouzas Owens, LLC, 16524 Pointe Village Drive, Suite 100, Lutz, FL 33558 (727) 254-5255

DEFENDANTS

ELIOT MANAGEMENT GROUP, LLC,

County of Residence of First Listed Defendant Hillsborough (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE 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. Includes various legal categories like Insurance, Personal Injury, Property Rights, etc.

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, 7 Appeal to District Judge from Magistrate Judgment

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 of 1938, as amended, 29 U.S.C. § 201, et. seq. ("FLSA") and Section

Brief description of cause: Unpaid wages collective action

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, SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #, AMOUNT, APPLYING IFP, JUDGE, MAG. JUDGE

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.C.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; 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 clerks 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. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

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 dollar amount (in thousands of dollars) 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.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Collective Action Filed Against Eliot Management Group for Allegedly Unpaid Wages](#)
