

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

HERBERT “SKIP” BOWEN,)	
Individually and on behalf of others)	
similarly situated,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION FILE
)	NO.:
ARROWHEAD LOCK & SAFE, INC.)	
and FRAN HENDERSON)	
)	
Defendants.)	JURY TRIAL DEMANDED

COLLECTIVE ACTION COMPLAINT FOR DAMAGES

COMES NOW Plaintiff Herbert “Skip” Bowen, and files this complaint against Defendants Arrowhead Lock & Safe, Inc. (hereinafter “Arrowhead”) and Fran Henderson (hereinafter “Henderson”) and shows the following:

NATURE OF COMPLAINT

1.

Plaintiff brings this action to obtain full and complete relief and to redress the unlawful employment practices described herein.

2.

This action also seeks declaratory relief, liquidated and actual damages for Defendants’ failure to pay federally mandated minimum wages and overtime wages to Plaintiff in violation of the Fair Labor Standards Act of 1938, as

amended, 29 U.S.C. §201 *et seq.* (hereinafter “FLSA”) during Plaintiff’s employment with Defendants (hereinafter referred to as the “relevant time period”).

3.

This action also seeks damages for breach of contract and/or promissory estoppel for Defendants’ failure to fulfill its promise to pay Plaintiff a stipend in lieu of benefits.

JURISDICTION AND VENUE

4.

The jurisdiction of this Court is invoked pursuant to 29 U.S.C. §216(b) and 28 U.S.C. § 1331.

5.

The unlawful employment practices alleged in this Complaint were committed within this District at Plaintiff’s former work location: 2211 Marietta Boulevard NW, Atlanta, Georgia 30318. In accordance with 28 U.S.C. § 1391, and LR 3, Northern District of Georgia, venue is appropriate in this Court.

PARTIES

6.

Plaintiff is a citizen of the State of Georgia, and is subject to the jurisdiction of this Court.

7.

Defendant Arrowhead is a registered Georgia corporation.

8.

Defendant Arrowhead may be served with process by delivering a copy of the summons and complaint to its registered agent, Fran Henderson, 2211 Marietta Boulevard NW, Atlanta, Georgia 30318.

9.

Defendant Henderson may be served with process by delivering a copy of the summons and complaint to her work address, 2211 Marietta Boulevard NW, Atlanta, Georgia 30318.

FACTUAL ALLEGATIONS

10.

Arrowhead is a locksmith company owned by Defendant Henderson.

11.

Plaintiff and others similarly situated (the “FLSA Collective”) are individuals who were employed as locksmiths at Arrowhead during the three years prior to the filing of this lawsuit and were not paid overtime when working over 40 hours per week.

12.

Plaintiff was hired as a locksmith in August 2016, earning a salary of \$900

per week.

13.

In March 2017, Plaintiff's pay was raised to \$1,100 per week, although Plaintiff did not receive a proper pay check stub, so he is unsure of the exact amount.

14.

Plaintiff was also promised \$150 per month as a stipend in exchange for purchasing his own health insurance. He received this amount only once in 11 months of employment.

15.

For after-hours calls (after 5pm), Plaintiff was supposed to get 50% of the amount paid to Arrowhead. He received this twice, both times it was coded as "reimbursement."

16.

Plaintiff generally worked about 60 hours per week, including 20 hours of overtime.

17.

Plaintiff worked about six months at \$900 per week (\$22.50 per hour) and five months at \$1,100 per week (\$27.50 per hour).

18.

Plaintiff should have been paid 1.5 times his hourly rate for each hour of overtime, but was not paid any premium for his overtime hours.

19.

Plaintiff's good faith estimate of his unpaid overtime wages is \$16,200 ($\$22.50 \times 1.5 \times 20 \text{ hours} = \$675 \times 24 \text{ weeks}$) plus \$16,500 ($\$27.50 \times 1.5 \times 20 \text{ hours} = \$825 \times 20 \text{ weeks}$) for a total of \$32,700.

20.

Upon information and belief, other locksmiths working at Arrowhead during the last three years have similar unpaid overtime claims.

21.

Plaintiff complained to Defendant Henderson about the unpaid overtime in July 2017.

22.

Defendant Henderson refused to pay Plaintiff the unpaid overtime and thus, Plaintiff resigned on or around July 20, 2017.

23.

Defendant Henderson is the owner of Arrowhead Lock & Safe, Inc.

24.

Defendant Henderson had discretion over Plaintiff's working hours,

employment status, and overtime compensation.

25.

Defendant Henderson acts both directly and indirectly in the interest of Arrowhead and was in a supervisory position over Plaintiff.

26.

Defendant Arrowhead is an “employer” within the definition of FLSA §3(d), 29 U.S.C. §203(d).

27.

Defendant Henderson is an “employer” within the definition of FLSA §3(d), 29 U.S.C. §203(d).

28.

Defendants are governed by and subject to FLSA §§ 6-7, 29 U.S.C. §§ 204, 206-207.

29.

At all relevant times, Defendant Arrowhead has been, and continues to be, an “employer” engaged in interstate commerce and/or the production of goods for commerce, within the meaning of the FLSA, 29 U.S.C. § 201, et. seq.

30.

At all times relevant, Defendant Arrowhead has employed and continues to employ, employees, including Plaintiffs, who engage or engaged in commerce or

in the production of goods for commerce.

31.

At all times relevant, upon information and belief, Defendant Arrowhead has had an annual gross volume of sales made or business done in excess of \$500,000.00.

32.

The minimum wage and overtime provisions of the FLSA, 29 U.S.C. § 201, et. seq., apply to Defendants and protect Plaintiff.

33.

Plaintiff has consented in writing to be a part of this action, pursuant to 29 U.S.C. § 216(b). As this case proceeds, it is likely that other individuals will sign consent forms and join as plaintiffs.

34.

Plaintiff and the FLSA Collective he seeks to represent allege violations of the FLSA on behalf of all persons who were, are, or will be employed by Defendants during the past three years, who have not been compensated at least minimum wage for all hours worked and/or one and one-half times the regular rate of pay for all work performed in excess of forty (40) hours per work week.

CAUSES OF ACTION

I. Violation of the Overtime Wage Requirement of the Fair Labor Standards Act (FLSA Collective).

35.

Defendants, individually and collectively, jointly and severally, have violated FLSA § 7, 29 U.S.C. § 207, by failing to pay overtime wages for time that Plaintiff worked in excess of forty (40) hours in a workweek.

36.

Pursuant to FLSA §16, 29 U.S.C. §216, Plaintiff brings this lawsuit to recover unpaid wages, overtime wage differential, liquidated damages in an equal amount, attorneys' fees, and the costs of this litigation.

37.

Plaintiff estimates that he is owed the following overtime wages: \$16,200 ($\$22.50 \times 1.5 \times 20 \text{ hours} = \$675 \times 24 \text{ weeks}$) plus \$16,500 ($\$27.50 \times 1.5 \times 20 \text{ hours} = \$825 \times 20 \text{ weeks}$) for a total of \$32,700.

38.

Plaintiff estimates that he is entitled to recover \$32,700.00 in unpaid overtime wages plus an equal amount in liquidated damages for a total of \$65,400.00.

II. Breach of Contract.

39.

Defendants' promised to provide a \$150 per month insurance stipend during the months Plaintiff worked for Defendants.

40.

Defendants' failure to abide by their promise in 10 of the 11 months Plaintiff worked for Defendants' is a breach of contract.

41.

Plaintiff has suffered losses of \$1,500 due to Defendants' failure to provide the promised benefit.

III. Promissory Estoppel.

42.

Defendant promised to provide a \$150 monthly stipend and Plaintiff reasonably relied on these promises when he began working for Defendants.

43.

Plaintiff suffered to his detriment when he did not receive the promised benefit in 10 of the 11 months Plaintiff worked for Defendants.

44.

Plaintiff has suffered losses of \$1,500 due to Defendants' failure to provide the promised benefit.

45.

An injustice can only be avoided by enforcement of Defendants' promises via payment for Plaintiff's losses.

Prayer for Relief

WHEREFORE, Plaintiff respectfully requests that this Court:

- (A) Grant Plaintiff and the FLSA Collective a trial by jury as to all triable issues of fact;
- (B) Enter judgment awarding Plaintiff and the FLSA Collective unpaid minimum wages and overtime wages pursuant to the FLSA §§ 6, 7; 29 U.S.C. §§ 206, 207, liquidated damages as provided by 29 U.S.C. § 216, pre-judgment interest on unpaid wages pursuant to 29 U.S.C. § 216, and court costs, expert witness fees, reasonable attorneys' fees as provided under FLSA § 16 and all other remedies allowed under the FLSA;
- (C) Enter declaratory judgment declaring that Plaintiff's rights and the rights of the FLSA Collective have been violated;
- (D) Award Plaintiff and the FLSA Collective such further and additional relief as may be just and appropriate.
- (E) Enter judgment awarding Plaintiff damages for breach of contract; and
- (F) Enter judgment awarding Plaintiff damages for promissory estoppel.

Respectfully submitted, this 3rd day of November, 2017.

THE SHARMAN LAW FIRM LLC

/s/ Paul J. Sharman

PAUL J. SHARMAN

Georgia State Bar No. 227207

The Sharman Law Firm LLC

11175 Cicero Drive, Suite 100

Alpharetta, GA 30022

Phone: (678) 242-5297

Fax: (678) 802-2129

Email: paul@sharman-law.com

Counsel for Plaintiff

CONSENT FORM

1. I hereby consent to join a lawsuit brought under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*, to recover compensation I am owed by my current/former employers, ARROWHEAD LOCK & SAFE, INC. and FRAN HENDERSON.
2. During the past three years, I worked as a locksmith for Arrowhead Lock & Safe, Inc. I did not receive overtime pay when I worked over 40 hours per week at Arrowhead.
3. I hereby designate The Sharman Law Firm LLC to represent me in this action.
4. If this case does not proceed collectively, then I also consent to join any subsequent action to assert these claims against ARROWHEAD LOCK & SAFE, INC. and FRAN HENDERSON.

Date: 11-3-17

Herbert Bowen

Signature

Herbert Bowen

Print Name

CIVIL COVER SHEET

The JS44 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 is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)

Herbert "Skip" Bowen, Individually and on behalf of others similarly situated

DEFENDANT(S)

Arrowhead Lock & Safe, Inc.
Fran Henderson

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Cobb (EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Fulton (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

Paul J. Sharman
The Sharman Law Firm LLC
11175 Cicero Drive, Suite 100
Alpharetta GA 30022
(678) 242-5297
paul@sharman-law.com

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) (FOR DIVERSITY CASES ONLY)

Table with columns for PLF and DEF, and rows for citizenship categories: CITIZEN OF THIS STATE, CITIZEN OF ANOTHER STATE, CITIZEN OR SUBJECT OF A FOREIGN COUNTRY, INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE, INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE, FOREIGN NATION.

IV. 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 District)
6 MULTIDISTRICT LITIGATION
7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT

V. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Violation of minimum wage and overtime wage statute under FLSA § 7, 29 U.S.C. § 207. Collective action requested.

(IF COMPLEX, CHECK REASON BELOW)

- 1. Unusually large number of parties.
2. Unusually large number of claims or defenses.
3. Factual issues are exceptionally complex
4. Greater than normal volume of evidence.
5. Extended discovery period is needed.
6. Problems locating or preserving evidence
7. Pending parallel investigations or actions by government.
8. Multiple use of experts.
9. Need for discovery outside United States boundaries.
10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIPT # AMOUNT \$ APPLYING IFP MAG. JUDGE (IFP)
JUDGE MAG. JUDGE NATURE OF SUIT CAUSE OF ACTION

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
120 MARINE
130 MILLER ACT
140 NEGOTIABLE INSTRUMENT
151 MEDICARE ACT
160 STOCKHOLDERS' SUITS
190 OTHER CONTRACT
195 CONTRACT PRODUCT LIABILITY
196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
220 FORECLOSURE
230 RENT LEASE & EJECTMENT
240 TORTS TO LAND
245 TORT PRODUCT LIABILITY
290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
315 AIRPLANE PRODUCT LIABILITY
320 ASSAULT, LIBEL & SLANDER
330 FEDERAL EMPLOYERS' LIABILITY
340 MARINE
345 MARINE PRODUCT LIABILITY
350 MOTOR VEHICLE
355 MOTOR VEHICLE PRODUCT LIABILITY
360 OTHER PERSONAL INJURY
362 PERSONAL INJURY - MEDICAL MALPRACTICE
365 PERSONAL INJURY - PRODUCT LIABILITY
368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
371 TRUTH IN LENDING
380 OTHER PERSONAL PROPERTY DAMAGE
385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 441 VOTING
442 EMPLOYMENT
443 HOUSING/ ACCOMMODATIONS
444 WELFARE
440 OTHER CIVIL RIGHTS
445 AMERICANS with DISABILITIES - Employment
446 AMERICANS with DISABILITIES - Other

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
463 HABEAS CORPUS- Alien Detainee
465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 510 MOTIONS TO VACATE SENTENCE
530 HABEAS CORPUS
535 HABEAS CORPUS DEATH PENALTY
540 MANDAMUS & OTHER
550 CIVIL RIGHTS - Filed Pro se
555 PRISON CONDITION(S) - Filed Pro se

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 610 AGRICULTURE
620 FOOD & DRUG
625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
630 LIQUOR LAWS
640 R.R. & TRUCK
650 AIRLINE REGS.
660 OCCUPATIONAL SAFETY / HEALTH
690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
720 LABOR/MGMT. RELATIONS
730 LABOR/MGMT. REPORTING & DISCLOSURE ACT
740 RAILWAY LABOR ACT
790 OTHER LABOR LITIGATION
791 EEMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395ff)
862 BLACK LUNG (923)
863 DIWC (405(g))
863 DIWW (405(g))
864 SSID TITLE XVI
865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 400 STATE REAPPORTIONMENT
430 BANKS AND BANKING
450 COMMERCE/ICC RATES/ETC.
460 DEPORTATION
470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
480 CONSUMER CREDIT
490 CABLE/SATELLITE TV
810 SELECTIVE SERVICE
875 CUSTOMER CHALLENGE 12 USC 3410
891 AGRICULTURAL ACTS
892 ECONOMIC STABILIZATION ACT
893 ENVIRONMENTAL MATTERS
894 ENERGY ALLOCATION ACT
895 FREEDOM OF INFORMATION ACT
900 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE
950 CONSTITUTIONALITY OF STATE STATUTES
890 OTHER STATUTORY ACTIONS

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTITRUST
850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- ARBITRATION (Confirm / Vacate / Order / Modify)

(Note: Mark underlying Nature of Suit as well)

* PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3

VII. REQUESTED IN COMPLAINT:

CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$

JURY DEMAND YES NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE DOCKET NO.

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):
7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. , WHICH WAS DISMISSED. This case IS IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

/s/ Paul J. Sharman

11/3/2017

SIGNATURE OF ATTORNEY OF RECORD

DATE

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Claims Arrowhead Lock & Safe Failed to Pay Wages, Insurance Stipend](#)
