

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

**TAMEKA BRYANT, Individually, :
and On Behalf of Others Similarly :
Situating,**

Plaintiff,

v.

**DEKALB MEDICAL CENTER,
INC.,**

Defendant.

Civil Action File No.

Jury Trial Demand

COMPLAINT

COMES NOW Plaintiff, Tameka Bryant (“Ms. Bryant”), by and through counsel undersigned, and hereby submits this action, on behalf of herself and others similarly situated, against DeKalb Medical Center, Inc. (“DMC” or “Defendant”). This is a renewal action, pursuant to O.C.G.A. § 9-2-61. Pursuant to O.C.G.A. § 9-11-41, the previous action, *Bryant v. DeKalb Medical Hospital*, Civil Action No. 18-A-67840, in the State Court of DeKalb County, Georgia, was dismissed without prejudice,. This renewal action is brought within six months from the dismissal without prejudice.

1.

Ms. Bryant, and others similarly situated, bring this action against DMC for violations of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 216 (“FLSA”), which authorizes employees to institute civil actions in court to recover damages for an employer’s failure to pay minimum wages and overtime wages, as required by the FLSA.

Parties, Jurisdiction and Venue

2.

At all times relevant to this action, Plaintiff was a resident of the State of Georgia and voluntarily submits herself to the jurisdiction of this Court.

3.

Defendant is a Domestic Nonprofit Corporation formed and doing business in the State of Georgia, and is subject to the jurisdiction and venue of this Court, with its principal office located at 2701 North Decatur Road, Decatur, Georgia 30033. Defendant may be served via its Registered Agent, Charles B. Eberhart, at 2675 North Decatur Road, Decatur, Georgia 30033.

4.

The jurisdiction of this Court is proper pursuant to 28 U.S.C. §§ 1331 and 1337.

5.

Venue is proper in this Court.

Factual Allegations

6.

At all times relevant hereto, Ms. Bryant, and others similarly situated, worked for Defendant at its office located in DeKalb County, Georgia.

7.

Defendant is an enterprise engaged in commerce or in the production of goods for commerce as defined by § 203(s) of the FLSA.

8.

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

9.

At all relevant times, Ms. Bryant, and others similarly situated, were “employees” of Defendant within the meaning of FLSA, 29 U.S.C. § 203(e)(1).

10.

At all relevant times, Ms. Bryant, and others similarly situated, were non-exempt employees entitled to minimum wages and overtime compensation within the meaning of FLSA, 29 U.S.C. §§ 206, 207, and 216(b).

11.

The overtime provisions set forth in § 207 of the FLSA apply to Defendant.

12.

The additional persons that may become Plaintiffs in this action are Defendant's current and/or former employees that are/were non-exempt and who, during one or more work weeks in the three year statute of limitations period, were not paid time and a half wages for all hours they worked in excess of forty (40) in a work week.

13.

Ms. Bryant brings this action as a collective action on behalf of herself and all other similarly situated employees who consent to representation, pursuant to 29 U.S.C. §216(b).

14.

From March 2017 through July 2017, Ms. Bryant was employed by Defendant as a PDX Operator.

15.

Defendant agreed to pay Ms. Bryant at the rate of \$16.04 per hour during her employment with Defendant.

16.

Throughout her employment with Defendant, Ms. Bryant frequently worked prior to clocking in, past the end of scheduled shifts, and worked from home in order to meet expectations. This practice was encouraged by Ms. Bryant's supervisor.

17.

Ms. Bryant worked approximately sixty-nine (69) hours per week while employed by Defendant. She estimates that, including the aforementioned "off the clock" hours, she worked twenty-nine (29) hours in excess of forty (40) hours per week in at least seventeen (17) weeks during her employment with Defendant.

18.

Defendant was aware of the fact that its employees, including Ms. Bryant, worked prior to clocking in, past the end of their shifts, and worked from home; however, Defendant routinely only paid employees for the hours they were scheduled to work, forty (40) hours per week, and failed to adequately adjust compensation for the amount of hours actually worked.

19.

Defendant failed to accurately report and/or record the time worked by Ms. Bryant.

20.

Upon discovering that she was not being paid for all the hours she worked, including overtime, Ms. Bryant complained to her supervisors.

21.

Instead of rectifying its FLSA violation, Defendant disciplined Ms. Bryant for complaining.

22.

In July 2017, after complaining to Defendant multiple times regarding its failure to pay her for all hours she worked, Ms. Bryant quit.

23.

As a result of Defendant's compensation practices and policies, Defendant failed to compensate Ms. Bryant for all hours worked, including overtime hours worked.

24.

Defendant did not make a good faith effort to comply with the FLSA with respect to its compensation of Ms. Bryant.

25.

Before filing this action, Ms. Bryant attempted to resolve her claims with Defendant's counsel; however, Defendant ultimately refused to pay Ms. Bryant the compensation due to her.

26.

Ms. Bryant retained undersigned counsel to represent her in this action and has incurred costs and reasonable attorneys' fees.

27.

As a result of the foregoing, Ms. Bryant files this lawsuit, seeking earned but unpaid overtime wages, earned but unpaid regular wages, liquidated damages, and attorneys' fees and costs.

COUNT I
(Violation of FLSA, 29 U.S.C. § 207 - Failure to Pay Overtime)

28.

Plaintiff incorporates by reference, as though fully set forth herein, the allegations contained in the preceding Paragraphs.

29.

Defendant is not exempt from application of the FLSA's overtime provisions as they pertain to Ms. Bryant, as Defendant has failed to meet the requirements for exemption pursuant to the FLSA.

30.

By failing to properly pay Ms. Bryant for all hours worked in excess of forty (40) hours per week, Defendant violated the overtime provisions of the FLSA, 29 U.S.C. § 207.

31.

Defendant is liable to Ms. Bryant for compensation for any and all time she worked in excess of forty (40) hours per week at the rate of at least one and one-half times her regularly hourly rate, as required by the FLSA.

32.

By failing to properly pay overtime compensation to Ms. Bryant in accordance with §§ 203 and 207 of the FLSA, Defendant willfully, intentionally, knowingly, and/or recklessly violated the FLSA.

33.

As a result of Defendant's violations of the FLSA, Ms. Bryant is entitled to damages, including, without limitation, unpaid overtime compensation, liquidated damages, attorneys' fees, and costs pursuant to the FLSA, 29 U.S.C. § 216.

COUNT II
(Violations of FLSA, 29 U.S.C. § 215 – Retaliation)

34.

Plaintiff incorporates by reference, as though fully set forth herein, the allegations contained in the preceding Paragraphs.

35.

In lodging a complaint with Defendant regarding its failure to provide compensation for overtime pay, Ms. Bryant engaged in protected activity under the FLSA.

36.

A causal connection exists between the protected activity engaged in by Ms. Bryant and Defendant's decision to discipline Ms. Bryant in retaliation for her complaints.

37.

As a result of Defendant's violation of the anti-retaliation provisions of the FLSA, 29 U.S.C. § 215(a)(3), Ms. Bryant is entitled to damages in an amount to be determined by the trier of fact.

Prayer

WHEREFORE, Ms. Bryant prays that this Court:

- (a) Permits this case to proceed as a FLSA collective action under 29 U.S.C. § 216 for Defendant's workers, past and present, who elect to participate in this action by filing proper written notice with the Court;
- (b) Awards Judgment in favor of Ms. Bryant and for each of the opt-in class against Defendant for overtime pay, and liquidated damages;
- (c) Awards Judgment in favor of Ms. Bryant for damages as a result of Defendant's retaliation against her for engaging in protected activity in violation of 29 U.S.C. § 215(a)(3);
- (d) Awards Ms. Bryant litigation expenses and costs, including attorneys' fees; and
- (e) For such other and further relief as this Court deems just and proper.

Jury Demand

Plaintiff hereby demands a trial by jury of all issues in this action.

Dated this 21st day of September 2018.

PANKEY & HORLOCK, LLC

By: /s/ Larry A. Pankey
Larry A. Pankey
Georgia Bar No. 560725
Erin J. Krinsky
Georgia Bar No. 862274
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CERTIFICATION OF FONT SIZE

Pursuant to Local rule 5.1C of the Local Rules of the United States District Court for the Northern District of Georgia, I, Larry A. Pankey, Esq., of Pankey & Horlock, LLC, attorney for Plaintiff, Tamicka Bryant, hereby certify that the foregoing **Complaint** is typewritten in MS Word using Times New Roman font, fourteen (14) point type.

Dated this 21st day of September 2018.

PANKEY & HORLOCK, LLC

By: /s/ Larry A. Pankey
Larry A. Pankey
Georgia Bar No. 560725
Attorneys for Plaintiff

JS 44 (Rev. 12/12)

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 NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Tameka Bryant, Individually, and On Behalf of Others Similarly Situated,

DEFENDANTS

DeKalb Medical Center, Inc.

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

County of Residence of First Listed Defendant DeKalb
(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, and Telephone Number)

Larry A. Pankey, Esq. - 770.670-6250

Pankey & Horlock, LLC

1441 Dunwoody Village Parkway, Atlanta, GA 30338

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 type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input 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 (Excludes 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 - Medical Malpractice	PERSONAL INJURY <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 type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management 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 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<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 XVI <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

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):
Fair Labor Standards Act, 29 U.S.C. Section 201, et. seq.

Brief description of cause:
Unpaid Overtime Compensation

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

09/21/2018

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: [Ex-Employee Files Suit Against DeKalb Medical Center Over Alleged Off-the-Clock Work, Unpaid OT](#)
