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

v.) For Violations of the Fair Labor	BRANDON CAMPBELL, et al., on behalf of themselves and all others similarly situated,)) CIVIL ACTION FILE NO.)
v.) COLLECTIVE ACTION COMPLAIN v.) For Violations of the Fair Labor HIGH TECH RAIL AND FENCE, LLC, DAVID MOFFAT, and CURTIS L. WHITAKER II,) JURY TRIAL DEMANDED)	Dlaintiffa) 3:18-cv-004-TCB
) For Violations of the Fair Labor HIGH TECH RAIL AND FENCE, LLC, DAVID MOFFAT, and CURTIS L. WHITAKER II,) JURY TRIAL DEMANDED)	Plainulis,) COLLECTIVE ACTION COMPLAINT
HIGH TECH RAIL AND FENCE, LLC, DAVID MOFFAT, and CURTIS L. WHITAKER II,) Standards Act of 1938, As Amende) JURY TRIAL DEMANDED)	v.)
LLC, DAVID MOFFAT, and CURTIS L. WHITAKER II,) JURY TRIAL DEMANDED)) For Violations of the Fair Labor
CURTIS L. WHITAKER II,) JURY TRIAL DEMANDED)	HIGH TECH RAIL AND FENCE,) Standards Act of 1938, As Amended
CURTIS L. WHITAKER II,) JURY TRIAL DEMANDED)	LLC, DAVID MOFFAT, and	
)	the state of the s) JURY TRIAL DEMANDED
Defendants.	001110 21 11111111111111111111111111111)
	Defendants.)

COLLECTIVE ACTION COMPLAINT

COME NOW the Plaintiffs Brandon Campbell, Willie Cox, NAMES, (hereinafter "Plaintiffs") by and through their undersigned counsel, and pursuant to Federal Rule of Civil Procedure 15(a) file this Complaint on behalf of themselves and all others similarly situated against the Defendants High Tech Rail and Fence, LLC (and their affiliated companies) ("High Tech"), David Moffat and Curtis L. Whitaker II (hereinafter collectively referred to as "Defendants") pursuant to § 216(b) of the Fair Labor Standards Act of 1938, as amended (hereinafter "the FLSA"), and in support thereof would state as follows:

I. INTRODUCTION

- 1. The instant action arises from Defendants' violations of Plaintiffs' rights under the Fair Labor Standards Act, 29 U.S.C. § 201, et seq., as amended, to remedy violations of the regular and overtime provisions of the Act by Defendants which have deprived the named Plaintiffs, as well as others similarly situated to the Plaintiffs, of their lawful regular and overtime wages.
- 2. Other current and former employees of Defendants are also entitled to receive regular and overtime compensation for the reasons alleged in this Complaint. The above-named Plaintiffs are permitted to maintain this action "for and on behalf of themselves and other employees similarly situated." 29 U.S.C. § 216(b). Any similarly situated employee wishing to become a party plaintiff to this action must provide "his consent in writing to become such a party," and such consent must be filed with this Court. 29 U.S.C. § 216(b).
- 3. This action is brought to recover unpaid regular and overtime compensation owed to the Plaintiffs and all current and former employees of Defendants who are similarly situated to the Plaintiffs, pursuant to the FLSA. The Plaintiffs and the collective group similarly situated are or have been employed by Defendants, working as installers or crew chiefs and other hourly and piecework positions.

- 4. During the applicable statute of limitations prior to the filing of this Complaint (three years), Defendants have committed widespread violations of the FLSA by failing to compensate employees at an overtime rate for hours worked in excess of 40 hours in a given workweek and other compensation associated with their employment (such as unreimbursed travel and other work-related expenses).
- 5. Plaintiffs and all similarly situated employees who elect to participate in this action seek unpaid regular and overtime compensation for work performed, an equal amount of liquidated damages to compensate them for the delay in payment of money due which Defendants instead used as working capital, attorneys' fees, and costs pursuant to 29 U.S.C. § 216(b).

II. JURISDICTION AND VENUE

- 6. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) as this action is being brought under the Federal Fair Labor Standards Act, 29 U.S.C. § 201 et seq. ("FLSA").
- 7. Venue is proper in the Northern District of Georgia under 28 U.S.C. § 1391 (b)-(c) because some of the acts complained of occurred within the State of Georgia and the jurisdiction of this Court and because Defendants maintain their principal places of business within this District.

III. PARTIES

- 8. Plaintiff BRANDON CAMPBELL resides in Griffin, Georgia (within this District) and is a citizen of the United States. Campbell was employed by the Defendants as an installer. He regularly worked for Defendants within this District.
- 9. Plaintiff WILLIE COX resides in Newnan, Georgia (within this District) and is a citizen of the United States. Cox was employed by the Defendants as a Crew Lead. He regularly worked for Defendants within this District.
- 10.Plaintiff SHANE MANOUS resides in Griffin, Georgia (within this District) and is a citizen of the United States. Manous was employed by the Defendants as an installer. He regularly worked for Defendants within this District.
- 11.Plaintiff JUSTIN REID resides in Griffin, Georgia (within this District) and is a citizen of the United States. Reid was employed by the Defendants as an installer. He regularly worked for Defendants within this District.
- 12.Plaintiff MONDEL WHITAKER resides in Newnan, Georgia (within this District) and is a citizen of the United States. Whitaker was employed by the Defendants as an installer. He regularly worked for Defendants within this District.

- 13.Plaintiff MICHAEL HALL resides in Coweta, Georgia (within this District) and is a citizen of the United States. Hall was employed by the Defendants as an installer. He regularly worked for Defendants within this District.
- 14.Plaintiff KEVON NOLAN resides in Newnan, Georgia (within this District) and is a citizen of the United States. Nolan was employed by the Defendants as an installer. He regularly worked for Defendants within this District.
- 15.Plaintiff ROBERT BOLTON resides in Newnan, Georgia (within this District) and is a citizen of the United States. Bolton was employed by the Defendants as an installer. He regularly worked for Defendants within this District.
- 16.Plaintiff ALEX HOLLOWAY resides in Newnan, Georgia (within this District) and is a citizen of the United States. Holloway was employed by the Defendants as a lead supervisor. He regularly worked for Defendants within this District.
- 17.Plaintiff WESLEY ANTHONY resides in Luthersville, Georgia (within this District) and is a citizen of the United States. Anthony was employed by the Defendants as a lead supervisor. He regularly worked for Defendants within this District.
- 18.At all times material to this action, the named Plaintiffs and all members of the collective action are and/or were "employees" of Defendants as defined by § 203(e)(1) of the FLSA, and worked for Defendants within the territory of the

United States within ten years preceding the filing of this lawsuit. These same individuals are further covered by § 206 and § 207 of the FLSA for the period in which they were employed by Defendants. Plaintiffs bring this action on behalf of themselves and other similarly situated employees pursuant to 29 U.S.C. § 216(b). See Consent Forms attached hereto as "Exhibit 1." Plaintiffs and the similarly situated employees are individuals who were, or are, employed by High Tech as installers or supervisors.

- 19.Defendant HIGH TECH RAIL AND FENCE, LLC ("High Tech") is a corporation based in Georgia which conducts business within this State and District and maintains its principal place of business at 536 Cornith Road, Newnan, Georgia 30263. High Tech owns and operates a construction business installing railing and fencing on residential and commercial construction as well as other improvements.
- 20.High Tech maintains either actual or constructive control, oversight and direction over the operation of its employees, including the practices of those operations.
- 21.High Tech is subject to personal jurisdiction in the State of Georgia for purposes of this lawsuit and can be served through its designated agent, Robert Lee Todd, IV located at 704 Woodbury Hwy., Greenville, GA 30222.

- 22.At all times material to this action, High Tech was an enterprise engaged in commerce or in the production of goods for commerce, as defined by Section 203(s)(1) of the FLSA, and had an annual gross volume of sales which exceeded \$500,000.
- 23.Defendant David Moffat was an owner and operator of High Tech during the applicable statute of limitations. Moffat was an "employer" within the meaning of the FLSA, 29 U.S.C. § 203(d).
- 24.Defendant Curtis Whitaker was an owner and operator of High Tech during the applicable statute of limitations. Whittaker was an "employer" within the meaning of the FLSA, 29 U.S.C. § 203(d).
- 25.At all times material to this action, Defendants were "employers" of the named Plaintiffs and/or others similarly situated, as defined by § 203(d) of the FLSA.
- 26. The overtime provisions set forth in § 207 of the FLSA apply to Defendants.

IV. VIOLATIONS OF THE FLSA

- 27.During the period of time material to this action, Defendants employed Plaintiffs Brandon Campbell, Willie Cox, NAMES
- 28.During periods throughout the last three years, Plaintiffs have frequently worked more than 40 hours per week without being paid overtime compensation.

29. During periods throughout the last three years, including but not limited to December of 2017, Defendants failed to properly compensate Plaintiffs for overtime and regular hours worked in violation of the FLSA, as well as expenses incurred by the Plaintiff's on the Defendants' behalf.

VIII. PRAYER FOR RELIEF

WHEREFORE, the named Plaintiffs, individually and on behalf of all other similarly situated persons, pursuant to § 216(b) of the FLSA, pray for the following relief:

A. That, at the earliest possible time, they be allowed to give notice of this action, or that the Court issue such Notice, to all persons who are presently, or have at any time during the three years immediately preceding the filing of this suit, up through and including the date of this Court's issuance of Court-supervised Notice, been employed by Defendants for any High Tech operation within the United States. Such notice shall inform them that this civil action has been filed and of the nature of the action, and of their right to opt into this lawsuit if they were not paid by Defendants for all hours worked in excess of 40 hours in a workweek at any time during the preceding three years or if Defendants otherwise deprived them of compensation related to

expenses incurred on Defendant's behalf or for all hours worked at the regular rate of pay.

- B. That all Plaintiffs be awarded damages in the amount of their respective unpaid compensation, plus an equal amount of liquidated damages to compensate Plaintiffs for the delay in payment of regular and overtime compensation due which the Defendants unlawfully used instead as personal capital or working capital of the business.
- C. That all Plaintiffs be awarded prejudgment interest;
- D. That all Plaintiffs be awarded reasonable attorneys' fees;
- E. That all Plaintiffs be awarded the costs and expenses of this action; and
- F. That all Plaintiffs be awarded such other, further legal and equitable relief, including but not limited to, any injunctive and/or declaratory relief to which they may be entitled.¹

Respectfully submitted this 12th day of January, 2018.

Tyler B. Kaspers, Ga. Bar No. 445708

THE KASPERS FIRM, LLC

152 New Street, Suite 109B

Macon, GA 31201

404-944-3128

tyler@kaspersfirm.com

¹ Plaintiffs have attached hereto a Civil Action Cover Sheet as "Exhibit 2" and Summonses for the defendants as "Exhibit 3."

Brandon Campell et al. v. High Tech Rail and Fence, LLC et al.

CONSENT TO JOIN COLLECTIVE ACTION Pursuant to Fair Labor Standards Act

	Pursuant to Fair Labor Standard 29 U.S.C. §216(b)
	consent and agree to pursue my claims arising out of regular and overtime work as an employee with High Tech Rail and Fence, LLC and its related affiliates and subsidiaries in connection with the above referenced lawsuit.
2. 1	Employee (title or position) from on or about (month, year).
3. 1	Ouring the above time period, I worked for High Tech Rail and Fence, LLC without being compensated for my work. During the above time period, also I worked in excess of forty (40) hours per During the above time period, also I worked in excess of forty (40) hours per
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	I hereby designate The Kaspers Firm, LLC to represent me for purposes of this action.
	action. I also designate the class representative(s) as my agent(s) to make decisions on my behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit.
Signatu Printed	name Brandon Campbell Date Signed 1/9/18

Brandon Campell et al. v. High Tech Rail and Fence, LLC et al.

1.	I consent and agree to pursue my claims arising out of regular and overtime work as an employee with High Tech Rail and Fence, LLC and its related affiliates and		
•	subsidiaries in connection with the above referenced lawsuit.		
2.	I worked at High Tech Rail and Fence, LLC as a		
	Crew Lead(title or position) from on or about		
3.	February, 2015 (month, year) to on or about November, 2017 (month, year). During the above time period, I worked for High Tech Rail and Fence, LLC		
	without being compensated for my work.		
4.	During the above time period, also I worked in excess of forty (40) hours per week, but was not paid overtime compensation.		
5	I understand that this lawsuit is brought under the Fair Labor Standards Act of		
٥.	1938, as amended, 29 U.S.C. §201 et. seq. I hereby consent, agree and opt-in to		
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Brandon Campell et al. v. High Tech Rail and Fence, LLC et al.

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	Brandon Campell et al. v. High Tech Rail and Fence, LLC et al.
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Brandon Campell et al. v. High Tech Rail and Fence, LLC et al.

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Brandon Campell et al. v. High Tech Rail and Fence, LLC et al.

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Brandon Campell et al. v. High Tech Rail and Fence, LLC et al.

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Brandon Campell et al. v. High Tech Rail and Fence, LLC et al.

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	Pursuant to Fair Labor Standards Act
	29 U.S.C. §216(b)
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Brandon Campell et al. v. High Tech Rail and Fence, LLC et al.

CONSENT TO JOIN COLLECTIVE ACTION Pursuant to Fair Labor Standards Act 29 U.S.C. §216(b)

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Printed name	Alex Ho	loway			3

Brandon Campell et al. v. High Tech Rail and Fence, LLC et al.

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Case 3:18-cv-00004-TCB. Document 1-2 Filed 01/12/18 Page 1 of 1

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 purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

purpose of limitating the civil	docket sheet. (SEE INSTRU	CTIONS ON NEXT PAGE OF	F THIS FO	ORM.)		and the the doc o	T the Clerk of C	ourt for t	ne	
I. (a) PLAINTIFFS				DEFENDANTS						
BRANDON CAMPBELL, et al.				HIGH TECH RAIL AND FENCE, LLC, DAVID MOFFAT and CURTIS L. WHITAKER II						
(b) County of Residence of First Listed Plaintiff SPALDING (EXCEPT IN U.S. PLAINTIFF CASES)				County of Residence of First Listed Defendant COWETA (IN U.S. PLAINTIFF CASES ONLY)						
(c) Attorneys (Firm Name, Address, and Telephone Number)				Attorneys (If Known)	ř.					
Tyler B. Kaspers The Ka Macon, GA 31201 (404	aspers Firm, LLC 152 9 944-3128	New Street, Suite 10	09B	**************************************						
II. BASIS OF JURISDICTION (Place an "X" in One Box Only)				III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaint						
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IV. NATURE OF SUIT (Place an "X" in One Box Only)			Por	reign Country	Click	here for: Nature	of Suit Code Descriptions.			
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190 Other Contract	Product Liability	☐ 380 Other Personal	D 720	Labor/Management						
☐ 195 Contract Product Liability ☐ 196 Franchise	360 Other Personal	Property Damage		Relations			☐ 890 Other Sta		tions	
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	Medical Malpractice			Leave Act			3 895 Freedom			
REAL PROPERTY ☐ 210 Land Condemnation	CIVIL RIGHTS ☐ 440 Other Civil Rights	PRISONER PETITIONS Habeas Corpus:	_	Other Labor Litigation			Act			
□ 220 Foreclosure	1 441 Voting	463 Alien Detainee	D 791	Employee Retirement Income Security Act	☐ 870 Taxes (U.S. Plaintiff or Defendant)		☐ 896 Arbitratio			
230 Rent Lease & Ejectment	☐ 442 Employment	510 Motions to Vacate		missing becamy rec						
240 Torts to Land 245 Tort Product Liability	443 Housing/ Accommodations	Sentence 530 General			26 USC 7609		Agency I	Act/Review or Appeal of Agency Decision		
290 All Other Real Property	1 445 Amer. w/Disabilities -	535 Death Penalty	60,750.00	IMMIGRATION	1		 950 Constitutionality of State Statutes 			
	Employment (Pinchilli)	Other:		☐ 462 Naturalization Application			State Statutes			
	Other 446 Amer. w/Disabilities -	☐ 540 Mandamus & Other ☐ 550 Civil Rights	☐ 465	Other Immigration Actions			1			
	☐ 448 Education	555 Prison Condition		Actions			1			
	d d	560 Civil Detainee - Conditions of	1				1			
		Confinement								
V. ORIGIN (Place an "X" in	One Box Only)									
		Remanded from Appellate Court	4 Reinst Reope	Italiste	rred from District	☐ 6 Multidistri Litigation Transfer	- i	Multidistr Litigation Direct File	1 -	
	Cite the U.S. Civil Sta	tute under which you are f	filing (De	not cite jurisdictional state	utes unless div	ersity):		on cer i ne		
VI. CAUSE OF ACTIO	Brief description of ca	iuse:								
AL DEOLIEGEED IN		regular and overtime								
VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.			DE	CHECK YES only if demanded in complaint: JURY DEMAND: Yes □ No						
VIII. RELATED CASE	(See instructions):					DEMAND:	A 163	D140		
IF ANY		JUDGE			DOCKET	NUMBER				
X	2,2018	SIGNATURE OF ATTOR	RNEY OF	RECORD	20	3-				
RECEIPT # AM	OUNT	A DOV 1997			()				
AM	OUNT	APPLYING IFP		JUDGE		MAG. JUDO	ЭE			

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: <u>High Tech Rail and Fence Named in Unpaid Overtime Complaint in Georgia</u>