

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

FRANK DILLON, Individually and
on behalf of others similarly situated,

Plaintiff,

v.

Case No.: 8:18 cv 542 T33 JSS

THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA,

Defendant.

_____ /

COLLECTIVE ACTION COMPLAINT
AND DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, FRANK DILLON (“Plaintiff”), on behalf of himself and all others similarly situated, by and through his undersigned counsel, pursuant to the Fair Labor Standards Act of 1938, as amended 29 U.S.C. § 201, *et. seq.*, and hereby sues Defendant, THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, (“Defendant”), and alleges as follows:

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et. seq.*
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. Plaintiff is a resident of Sarasota County, Florida and worked for Defendant in this jurisdictional district during the applicable statute of limitations.

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\$400

4. Defendant is a Foreign Profit Corporation authorized and doing business in this Judicial District.

5. Defendant is an enterprise engaged in commerce as defined by 29 U.S.C. § 203(s)(1)(A), because it has employees engaged in commerce or in the production of good for commerce, or has employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce and because it has an annual gross volume of sales made or business done greater than \$500,000.00.

6. Plaintiff was engaged interstate commerce because he directly participated in the actual movement of persons or things in interstate commerce and because he regularly used the instrumentalities of interstate commerce throughout the course of his employment with Defendant.

7. Plaintiff was an employee of Defendant pursuant to 29 U.S.C. § 203(e)(1), Defendant was Plaintiff's employer within the meaning of 29 U.S.C. § 203(d), and Defendant employed Plaintiff within the meaning of 29 U.S.C. § 203(g).

FACTUAL ALLEGATIONS

8. Plaintiff was employed with Defendant for approximately eighteen (18) years as an Investigator.

9. As an Investigator, Plaintiff regularly worked more than (40) hours in a work week and was not paid the required rate of time and one-half his regular rate of pay for each and every hour that he worked in excess of forty (40) hours. Specifically, Plaintiff worked approximately ten (10) to twenty (20) hours of unpaid overtime per work week and was not compensated for this time.

COUNT I
FAIR LABOR STANDARDS ACT (UNPAID OVERTIME)

10. Plaintiff re-alleges and adopts, as if fully set forth herein, the allegations stated in paragraphs one (1) through nine (9).

11. The employment of Plaintiff provided for a forty (40) hour work week, but through his respective employment, Plaintiff was required to work and did work a substantial number of hours in excess of forty (40) hours per week.

12. At all times material, Defendant failed to comply with 29 U.S.C. § 201 *et seq.*, in that Plaintiff worked for Defendant in excess of the maximum hours allowed by law, but no provision was made by Defendant to compensate Plaintiff at the rate of time and one-half his regular rate of pay for the hours worked over forty (40) in a work week.

13. Defendant knew or had reason to know that Plaintiff performed work in excess of forty (40) hours per work week.

14. Defendant's violations of the FLSA were knowing, willful, and in reckless disregard of the rights of Plaintiff.

15. 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, FRANK DILLON, respectfully requests that judgment be entered in his favor against Defendant, THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, including, but not limited to:

- a. Overtime compensation;
- b. Liquidated damages;
- c. Prejudgment interest;
- d. Payment of reasonable attorneys' fees and costs incurred in the prosecution of this claim;
- e. Equitable relief declaring and mandating the cessation of Defendant's unlawful pay policy; and

f. For such other relief as the court may deem just and proper.

COUNT II
FAIR LABOR STANDARDS ACT (COLLECTIVE ACTION)

16. Plaintiff re-alleges and adopts, as if fully set forth herein, the allegations stated in paragraphs one (1) through nine (9).

17. At all times material, Defendant's employed numerous individuals who were similarly situated to Plaintiff with respect to the terms and conditions of their employment.

18. Throughout their respective employment, individuals similarly situated to Plaintiff were required to work and did work a substantial number of hours in excess of forty (40) hours per work week.

19. At all times material, Defendant failed to comply with 29 U.S.C. § 201 *et seq.*, in that individuals similarly-situated to Plaintiff worked for Defendant in excess of the maximum hours allowed by law, but no provision was made by Defendant to compensate such individuals at the rate of time and one-half their regular rate of pay for the hours worked over forty (40) in a work week.

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

21. 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, FRANK DILLON, on behalf of himself and all others similarly situated, respectfully requests all legal and equitable relief allowed by law, including, but not limited to:

- a. Authorization of notice to all others similarly situated to Plaintiff of their right to opt-in to this action;
- b. Designation of this action as a collective action on behalf of Plaintiff and all others similarly-situated;
- c. Judgment against Defendant for overtime compensation, liquidated damages, and prejudgment interest;
- d. Payment of reasonable attorneys' fees and costs incurred in the prosecution of this claim;
- e. For such other relief as the court may deem just and proper.

DEMAND FOR JURY TRIAL

22. Plaintiff requests a jury trial on all issues so triable.

Dated this 7 day of March, 2018.

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Attorneys for Plaintiff

CIVIL COVER SHEET

JS 44 (Rev. 12/07)

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

FRANK DILLON, Individually and on behalf of others similarly situated,

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

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

Miguel Bouzas, Esq., Wolfgang M. Florin, Esq., FLORIN, GRAY, BOUZAS, OWENS, LLC, 16524 Pointe Village Drive, Suite 100

DEFENDANTS

THE PRUDENTIAL INSURANCE COMPANY OF AMERICA,

County of Residence of First Listed Defendant Essex County, NJ (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 columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes checkboxes for various legal categories like Insurance, Personal Injury, Real Property, 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, 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. Brief description of cause: Violations of the Fair Labor Standards Act

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

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: Prudential Insurance Company Denied Employees OT Pay](#)
