

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
HOT SPRINGS DIVISION

**FILED**  
US DISTRICT COURT  
WESTERN DISTRICT  
OF ARKANSAS  
Oct 26, 2018  
OFFICE OF THE CLERK

**STEFAN LEU, Individually and on  
Behalf of All Others Similarly Situated**

**PLAINTIFF**

vs.

No. 6:18-cv-6106

**THE TRIUMPH GROUP OPERATIONS, INC.,  
and APA AVIATION SERVICES, LLC**

**DEFENDANTS**

**ORIGINAL COMPLAINT – COLLECTIVE ACTION**

COMES NOW Plaintiff Stefan Leu (“Plaintiff”), individually and on behalf of all others similarly situated, by and through his attorneys Chris Burks and Josh Sanford of the Sanford Law Firm, PLLC, and for his Original Complaint – Collective Action against Defendants The Triumph Group Operations, Inc., and APA Aviation Services, LLC (hereafter “Defendants”), does hereby state and allege as follows:

**I. PRELIMINARY STATEMENTS**

1. This is a collective action brought by Plaintiff Stefan Leu, individually and on behalf of all hourly-paid aircraft maintenance employees employed by Defendants at any time within a three-year period preceding the filing of this Complaint.

2. Plaintiff brings this action under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”) and the Arkansas Minimum Wage Act, Ark. Code Ann. § 11-4-201, *et seq.* (“AMWA”), for declaratory judgment, monetary damages, liquidated damages, prejudgment interest, and costs, including reasonable attorneys’ fees, as a result of Defendants’ failure to pay Plaintiff and all other hourly-paid aircraft maintenance

employees lawful overtime compensation for hours worked in excess of forty (40) hours per week.

3. Upon information and belief, for at least three (3) years prior to the filing of this Complaint, Defendants have willfully and intentionally committed violations of the FLSA and the AMWA as described, *infra*.

## II. JURISDICTION AND VENUE

4. The United States District Court for the Eastern District of Arkansas has subject matter jurisdiction over this suit under the provisions of 28 U.S.C. § 1331 because this suit raises federal questions under the FLSA.

5. This complaint also alleges AMWA violations, which arise out of the same set of operative facts as the federal cause of action herein alleged; accordingly, this state cause of action would be expected to be tried with the federal claim in a single judicial proceeding. Therefore, this Court has supplemental jurisdiction over Plaintiff's AMWA claims pursuant to 28 U.S.C. § 1367(a).

6. Defendants conduct business in this District and a substantial part of the events alleged herein occurred in this District.

7. The witnesses to overtime wage violations alleged in this Complaint reside in this District.

8. The acts alleged in this Complaint had their principal effect within the Hot Springs Division of the Western District of Arkansas, and venue is proper in this Court pursuant to 28 U.S.C. § 1391.

### III. THE PARTIES

9. Plaintiff repeats and re-alleges all the preceding paragraphs of this Complaint as if fully set forth in this section.

10. Plaintiff is a resident and domiciliary of the State of Arkansas.

11. Within the three (3) years preceding the filing of this Complaint, Plaintiff worked for Defendants in Hot Springs.

12. Separate Defendant The Triumph Group Operations, Inc., owns and operates a sheet metal parts and manufacturing facility for various aircrafts and aircraft components in Hot Springs.

13. Separate Defendant APA Aviation Services, LLC, operates as a staffing company for customers in the aerospace and aircraft industry across the United States, including The Triumph Group Operations, Inc.

14. Plaintiff was employed by Defendants from approximately 2015 until approximately October 8, 2018, as an hourly-paid senior aircraft painter.

15. At all times material herein, Plaintiff has been entitled to the rights, protections and benefits provided under the FLSA and the AMWA.

16. Separate Defendant The Triumph Group Operations, Inc., is foreign, for-profit corporation registered and licensed to do business in the State of Arkansas.

17. Separate Defendant The Triumph Group Operations, Inc., has employees that handle, sell, or otherwise work on goods or materials that have been moved in or produced for commerce.

18. At all relevant times, Separate Defendant The Triumph Group Operations, Inc., continuously employed at least four (4) employees.

19. At all relevant times, Separate Defendant The Triumph Group Operations, Inc.'s gross volume of sales made or business done has exceeded \$500,000.00 per year.

20. Separate Defendant The Triumph Group Operations, Inc.'s registered agent for service of process is Corporation Service Company, 300 Spring Building, Suite 900, 300 South Spring Street, Little Rock, Arkansas 72201.

21. Separate Defendant APA Aviation Services, LLC, is a Texas limited liability company that conducts business in the State of Arkansas.

22. Separate Defendant APA Aviation Services, LLC, has employees that handle, sell, or otherwise work on goods or materials that have been moved in or produced for commerce.

23. At all relevant times, Separate Defendant APA Aviation Services, LLC, continuously employed at least four (4) employees.

24. At all relevant times, Separate Defendant APA Aviation Services, LLC's gross volume of sales made or business done has exceeded \$500,000.00 per year.

25. Separate Defendant APA Aviation Services, LLC's registered agent for service of process is Danny McKee, 4150 International Plaza, Suite 510, Fort Worth, Texas 76109.

#### **IV. FACTUAL ALLEGATIONS**

26. Plaintiff repeats and re-alleges all previous paragraphs of this Complaint as if fully set forth in this section.

27. During part of the three (3) years prior to the filing of this lawsuit, Plaintiff worked for Defendants as a senior aircraft painter for Defendants in Hot Springs.

28. Plaintiff and other hourly-paid aircraft maintenance employees were classified by Defendants as independent contractors.

29. Plaintiff, and other hourly-paid aircraft maintenance employees were paid an hourly rate by Defendants.

30. The basic duties of Plaintiff and other hourly-paid aircraft maintenance employees included, but are not limited to, assembling and repairing various aircraft components, preparing and applying primers and paint for various aircrafts and other general upkeep duties for the aircrafts.

31. Defendants required Plaintiff, and other hourly-paid aircraft maintenance employees to satisfy whatever needs and requirements Defendants and Defendant's customers had.

32. Plaintiff, and other hourly-paid aircraft maintenance employees were hired to work for Defendants.

33. Plaintiff and other hourly-paid aircraft maintenance employees did not share in Defendants' profits.

34. Plaintiff, and other hourly-paid aircraft maintenance employees did not share in Defendants' losses.

35. Defendants made decisions on advertising Defendants' business without the input of Plaintiff or other hourly-paid aircraft maintenance employees.

36. Defendants entered into contracts with its customers and Plaintiff and other hourly-paid aircraft maintenance employees did not sign contracts with Defendants' customers.

37. Defendants set the prices for its customers for manufacturing and maintenance work without input or negotiation from Plaintiff and other hourly-paid aircraft maintenance employees.

38. Plaintiff and other hourly-paid aircraft maintenance employees did not advertise themselves as independent contractors.

39. Defendants made decisions on what new business to pursue or take without the input of Plaintiffs and other hourly-paid aircraft maintenance employees.

40. Plaintiff, and other hourly-paid aircraft maintenance employees did not negotiate contracts or prices with Defendants' customers.

41. Defendants expected Plaintiff and other hourly-paid aircraft maintenance employees to follow Defendants' policies regarding their employment.

42. Defendants recorded the regular working time of Plaintiff and other hourly-paid aircraft maintenance employees via time clock.

43. Plaintiff and other hourly-paid aircraft maintenance employees worked more than forty (40) hours in most workweeks.

44. Defendants routinely scheduled Plaintiff, and other hourly-paid aircraft maintenance employees to work more than forty (40) hours in a single workweek.

45. Defendants had a practice of not paying Plaintiff, and other hourly-paid aircraft maintenance employees one and one-half (1.5) times their regular rate for any hours worked in excess of forty (40) hours per workweek.

46. Plaintiff, and other hourly-paid aircraft maintenance employees worked an average of ten to fifteen hours of overtime in most workweeks for Defendants for which they were not lawfully compensated.

47. At all relevant times herein, Defendants has deprived Plaintiff and all others similarly situated of a proper overtime premium for all of the hours they worked in excess of forty (40) hours in a week.

48. Defendants knew, or showed reckless disregard for whether, the way it paid Plaintiff and all others similarly situated violated the FLSA and the AMWA.

49. Defendants purposefully and knowingly misclassified Plaintiff and all others similarly situated as independent contractors.

## V. REPRESENTATIVE ACTION ALLEGATIONS

### FLSA § 216(b) Collective

50. Plaintiff repeats and re-alleges all the preceding paragraphs of this Complaint as if fully set forth in this section.

51. Plaintiff brings this claim for relief for violation of the FLSA as a collective action pursuant to Section 16(b) of the FLSA, 29 U.S.C. § 216(b).

52. Plaintiff brings his FLSA claim on behalf of all and other hourly-paid aircraft maintenance employees employed by Defendants at any time within the applicable statute of limitations period, who were classified by Defendants as independent contractors and thus exempt from the overtime requirements of the FLSA and who are entitled to payment of the following types of damages:

A. Payment for all hours worked, including payment of a lawful overtime premium for all hours worked for Defendants in excess of forty (40) hours in a workweek;

B. Liquidated damages; and

C. Attorneys' fees and costs.

53. In conformity with the requirements of FLSA Section 16(b), Plaintiff has attached hereto as Exhibit "A" his written Consent to Join this lawsuit.

54. The relevant time period dates back three (3) years from the date on which Plaintiff's Original Complaint—Collective Action was filed and continues forward through the date of judgment pursuant to 29 U.S.C. § 255(a).

55. The members of the proposed FLSA Collective are similarly situated in that they share these traits:

- A. They were classified by Defendants as independent contractors and thus exempt from the overtime requirements of the FLSA;
- B. They were paid hourly rates;
- C. They recorded their time in the same manner; and
- D. They were subject to Defendants' common practice not paying a lawful overtime premium for all hours worked over forty (40) hours per work week.

56. Plaintiff is unable to state the exact number of the potential members of the FLSA Collective but believes that the group consists of approximately fifteen to twenty people.

57. Defendants can readily identify the members of the Section 16(b) Collective. The names, physical addresses, electronic mailing addresses and phone numbers of the FLSA collective action members are available from Defendants, and a Court-approved Notice should be provided to the FLSA collective action members via first class mail, email and text message to their last known physical and electronic mailing addresses and cell phone numbers as soon as possible, together with other documents and information descriptive of Plaintiff's FLSA claim.



**VI. FIRST CLAIM FOR RELIEF  
(Individual Claim for Violation of the FLSA)**

58. Plaintiff repeats and re-alleges all previous paragraphs of this Complaint as if fully set forth in this section.

59. Plaintiff asserts this claim for damages and declaratory relief pursuant to the FLSA.

60. At all relevant times, Defendants have been, and continue to be, an enterprise engaged in commerce within the meaning of the FLSA, 29 U.S.C. § 203.

61. At all relevant times, Defendants were Plaintiff's "employer" within the meaning of the FLSA, 29 U.S.C. § 203.

62. 29 U.S.C. § 207 requires any enterprise engaged in commerce to pay all employees one and one-half (1.5) times their regular wage for all hours worked over forty (40) hours in a week, unless an employee meets certain exemption requirements of 29 U.S.C. § 213 and all accompanying Department of Labor regulations.

63. Defendants misclassified Plaintiff as an independent contractor.

64. Despite the entitlement of Plaintiff to overtime payments under the FLSA, Defendants failed to pay Plaintiff an overtime rate of one and one-half (1.5) times his regular rate of pay for all hours worked over forty (40) in each one-week period.

65. Defendants' failure to pay Plaintiff overtime wages owed was willful.

66. By reason of the unlawful acts alleged herein, Defendants are liable to Plaintiff for monetary damages, liquidated damages, and costs, including reasonable attorneys' fees, for all violations that occurred within the three (3) years prior to the filing of this Complaint.

67. Alternatively, should the Court find that Defendants acted in good faith in failing to pay Plaintiff as provided by the FLSA, Plaintiff is entitled to an award of prejudgment interest at the applicable legal rate.

**VII. SECOND CLAIM FOR RELIEF  
(Collective Action Claim for Violation of FLSA)**

68. Plaintiff repeats and re-alleges all the preceding paragraphs of this Original Complaint as if fully set forth in this section.

69. Plaintiff brings this collective action on behalf of all and other hourly-paid aircraft maintenance employees employed by Defendants to recover monetary damages owed by Defendants to Plaintiff and members of the putative collective for unpaid overtime compensation for all the hours he and they worked in excess of forty (40) each week.

70. Plaintiff brings this action on behalf of himself and all and other hourly-paid aircraft maintenance employees, former and present, who were and/or are affected by Defendants' willful and intentional violation of the FLSA.

71. 29 U.S.C. § 207 requires employers to pay employees one and one-half (1.5) times the employee's regular rate for all hours that the employee works in excess of forty (40) per week.

72. Defendants misclassified Plaintiff and other hourly-paid aircraft maintenance employees as independent contractors

73. Like Plaintiff, these and other hourly-paid aircraft maintenance employees regularly worked more than forty (40) hours in a week.

74. Defendants failed to pay these workers at the proper overtime rate for all hours worked in excess of forty (40) hours in a week, despite their entitlement thereto.

75. Because these employees are similarly situated to Plaintiff, and are owed overtime for the same reasons, the opt-in collective may be properly defined as:

**All hourly-paid aircraft maintenance employees who worked  
within the three (3) years preceding the filing of this  
Complaint.**

76. Defendants' conduct and practice, as described above, has been and is willful, intentional, unreasonable, arbitrary and in bad faith.

77. By reason of the unlawful acts alleged in this Complaint, Defendants are liable to Plaintiff and all those similarly situated for, and Plaintiff and all those similarly situated seek, unpaid overtime wages, liquidated damages, and costs, including reasonable attorney's fees as provided by the FLSA.

78. Alternatively, should the Court find that Defendants acted in good faith in failing to pay Plaintiff and all those similarly situated as provided by the FLSA, Plaintiff and all those similarly situated are entitled to an award of prejudgment interest at the applicable legal rate.

**VIII. THIRD CLAIM FOR RELIEF  
(Individual Claim for Violation of the AMWA)**

79. Plaintiff repeats and re-alleges all previous paragraphs of this Complaint as if fully set forth in this section.

80. Plaintiff asserts this claim for damages and declaratory relief pursuant to the AMWA.

81. Defendants misclassified Plaintiff as an independent contractor.

82. At all times relevant herein, Defendants were Plaintiff's "employer" within the meaning of the AMWA, Ark. Code Ann. § 11-4-203(4).

83. Arkansas Code Annotated § 11-4-211 requires employers to pay all employees one and one-half (1.5) times regular wages for all hours worked over forty (40) hours in a week, unless an employee meets the exemption requirements of 29 U.S.C. § 213 and accompanying Department of Labor regulations.

84. Defendants failed to pay Plaintiff an overtime premium for all hours worked in excess of forty (40) hours in a week as required under the AMWA.

85. Despite the entitlement of Plaintiff to payment of lawful overtime payments under the AMWA, Defendants failed to pay Plaintiff a lawful overtime premium.

86. Defendants' conduct and practices, as described above, was willful, intentional, unreasonable, arbitrary and in bad faith.

87. By reason of the unlawful acts alleged herein, Defendants are liable to Plaintiff for, and Plaintiff seeks, monetary damages, liquidated damages, prejudgment interest, civil penalties and costs, including reasonable attorney's fees as provided by the AMWA.

88. Alternatively, should the Court find the Defendants acted in good faith in failing to pay Plaintiff as provided by the AMWA, Plaintiff is entitled to an award of prejudgment interest at the applicable legal rate.

#### **IX. PRAYER FOR RELIEF**

WHEREFORE, premises considered, Plaintiff Stefan Leu, individually and on behalf of all others similarly situated, respectfully prays as follows:

- A. That Defendants be summoned to appear and answer this Complaint;
- B. That Defendants be required to account to Plaintiff, the collective action members and the Court for all of the hours worked by them and all monies paid to them;

C. A declaratory judgment that Defendants' practices alleged herein violate the FLSA and attendant regulations at 29 C.F.R. §516 *et seq.*;

D. A declaratory judgment that Defendants' practices alleged herein violate the AMWA and the related regulations;

E. Certification of, and proper notice to, together with an opportunity to participate in the litigation, all qualifying current and former employees;

F. Judgment for damages for all unpaid overtime compensation under the FLSA and attendant regulations at 29 C.F.R. §516 *et seq.*;

G. Judgment for damages for all unpaid overtime compensation under the AMWA and the related regulations;

H. Judgment for liquidated damages pursuant to the FLSA and attendant regulations at 29 C.F.R. §516 *et seq.*, in an amount equal to all unpaid overtime compensation;

I. Judgment for liquidated damages pursuant to the AMWA and the related regulations;

J. For a reasonable attorney's fee, costs and pre-judgment interest; and


K. Such other and further relief as this Court may deem necessary, just and proper.

Respectfully submitted,

**STEFAN LEU, Individually and on  
Behalf of All Others Similarly Situated,  
PLAINTIFF**

SANFORD LAW FIRM, PLLC  
One Financial Center  
650 South Shackleford, Suite 411  
Little Rock, Arkansas 72211  
Telephone: (501) 221-0088  
Facsimile: (888) 787-2040

  
\_\_\_\_\_  
Christopher Burks  
Ark. Bar No. 2010207  
[chris@sanfordlawfirm.com](mailto:chris@sanfordlawfirm.com)

  
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Josh Sanford  
Ark. Bar No. 2001037  
[josh@sanfordlawfirm.com](mailto:josh@sanfordlawfirm.com)

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Allegedly Misclassified Worker Files Unpaid OT Suit Against The Triumph Group Operations, APA Aviation Services](#)

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