

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

**NATHANIEL LOCKLEY, individually  
and on behalf of those similarly situated,**

**Plaintiff,**

**Case Number** \_\_\_\_\_

**v.**

**EBS SECURITY, Inc.,**

**Defendant.**

\_\_\_\_\_ /

**COMPLAINT AND DEMAND FOR JURY TRIAL**

1. Plaintiff, was an employee of Defendant, and brings this action for unpaid overtime wages (§ 7), and other relief under the Fair Labor Standards Act. Additionally, Plaintiff seeks minimum wages under Article X, Section 24 of the Florida Constitution, unpaid wages under Chapter 448 of the Florida Statutes. Plaintiff worked for Defendant from approximately June 2016 through November of 2016.

2. Defendant operates and conducts business in Jacksonville, Florida, and are therefore, within the jurisdiction of the Court.

3. This action is brought under the FLSA to recover from Defendant, minimum wages, unpaid overtime wages, liquidated damages, and reasonable attorneys' fees and costs. Additionally, Plaintiff seeks minimum wages under Article X, Section 24 of the Florida Constitution and unpaid wages under Chapter 448 of the Florida Statutes.

4. The Court has original jurisdiction over Plaintiff's minimum wage overtime (29 U.S.C. § 207) claims pursuant to 28 U.S.C. § 1331, and supplemental jurisdiction

over Plaintiff's state constitutional minimum wage claim, unpaid wages claim (Fla. Stat. § 448.08) and claims pursuant to 28 U.S.C. § 1367(a).

5. At all material times relevant to this action, Defendant was an enterprise covered by the FLSA, and as defined by 29 U.S.C. § 203(r) and 203(s).

6. Defendant employed Plaintiff as defined by 29 U.S.C. § 203(d). Plaintiff's day to day employment was directed Printella Bankhead, who supervised Plaintiff's employment.

7. Defendant employed Plaintiff in a position that did not involve significant discretion. Likewise, Plaintiff was not employed by Defendant in a managerial capacity. Plaintiff was not employed in an administrative capacity. Plaintiff was employed in a labor capacity only.

8. Plaintiff's work involved interaction with the instrumentalities of interstate commerce, and was individually entitled to the protections of the FLSA, which included but was not limited to functioning as a security guard, for Defendant, at numerous locations, including hotels and rehabilitation facilities and this involved the protection of goods and people that come from states other than Florida.

9. At all times relevant to this action, Defendant failed to comply with 29 U.S.C. §§ 201-209, because Plaintiff performed labor related services for Defendant for which no provisions were made by Defendant to properly pay Plaintiff for all hours worked in excess of forty within a work week, and to ensure that Plaintiff was paid at the minimum wage for each hour worked within a work week.

10. During Plaintiff's employment with Defendant, Plaintiff was not paid time and one-half his regular rate of pay for all hours worked in excess of forty (40) per work week during one or more work weeks.

11. Upon information and belief, the vast majority of the employment related records, to the extent any exist, concerning the number of hours worked and amounts paid to Plaintiff is in the possession and custody of Defendant.

**COUNT I – RECOVERY OF OVERTIME  
COMPENSATION**

12. Plaintiff reincorporates and readopts all allegations contained within Paragraphs 1-11 above.

13. Plaintiff was entitled to be paid time at one-half his regular rate of pay for each hour worked in excess of forty (40) per work week. During his employment with Defendant, Plaintiff was not paid for all of the hours that he worked and there are weeks for which the Defendant paid Plaintiff straight-time as opposed to premium wages for various weeks of Plaintiff's employment. Upon information and belief, there are similarly situated employees who were also not paid in accordance with the law as Defendant employees in excess of ten similarly situated persons and Defendant's stated policy is not to pay premium wages. In fact, when Plaintiff inquired as to why he was not being paid premium wages to his immediate supervisor, referenced above, said supervisor specifically stated, "you know I don't pay that (overtime rate)...I would have thought your co-workers would have made that clear to you by now...I am tired of trying to please you people (security guards)." Plaintiff routinely worked in excess of approximately ten hours a week, for which he was not paid overtime wages. Defendant failed, neglected and/or refused to compensate Plaintiff for time Plaintiff spent traveling

between job sites and Plaintiff would often work at multiple job sites on the same work day and would not be paid for the time spent traveling between the work sites assigned by Plaintiff.

14. As a result of Defendant's intentional, willful, and unlawful acts in refusing to pay Plaintiff, and those similarly situated to him, their regular rate of pay for each hour worked in excess of forty (40) per work week in one or more work weeks, Plaintiff has suffered damages plus incurring reasonable attorneys' fees and costs.

15. As a result of Defendant's willful violation of the FLSA, Plaintiff is entitled to liquidated damages.

16. Plaintiff demands a trial by jury.

WHEREFORE, Plaintiff demands judgment against Defendant, for the payment of all straight time the regular rate of pay for the hours worked by his for which Defendant did not properly compensate his liquidated damages, reasonable attorneys' fees and costs incurred in this action, and any and all further relief that this Court determines to be just and appropriate.

**COUNT II – RECOVERY OF MINIMUM WAGES UNDER  
ARTICLE X SECTION 24 OF THE FLORIDA CONSTITUTION**

17. Plaintiff reincorporates and readopts all allegations contained within Paragraphs 1-11 above.

18. As of May 2005, Pursuant to Article X, Section 24 of the Florida Constitution, Plaintiff was entitled to be paid minimum wage of \$7.93 (the rate increases each year) for each hour he worked during his employment with Defendant.

19. Defendant willfully failed to pay Plaintiff minimum wage for one or more weeks of work contrary to Article X, Section 24 of the Florida Constitution. Specifically,

Defendant failed to pay Plaintiff any wages whatsoever for approximately one-hundred accrued hours of labor. As a result of Defendant's actions in this regard, Plaintiff has not been paid the minimum wage for each hour worked during he employment with Defendant.

20. As a result of Defendant's deliberate underpayment of wages, Plaintiff has been damaged in the loss of minimum wages for one or more weeks of work with Defendant.

21. Plaintiff demands a trial by jury.

WHEREFORE, Plaintiff demands judgment against Defendant for damages, interest, reasonable attorneys' fees and costs incurred in this action.

**COUNT III – RECOVERY OF UNPAID WAGES  
UNDER CHAPTER 448, FLORIDA STATUTES**

22. Plaintiff reincorporates and readopts all allegations contained within Paragraphs 1-11 above.

23. Plaintiff worked numerous hours for Defendant and did not receive any compensation, whatsoever. Defendant, therefore, wrongfully deprived Plaintiff of wages to which he has been lawfully entitled.

24. Plaintiff has been damaged as a result of Defendant's failure to pay he the agreed upon wages to which he has been entitled.

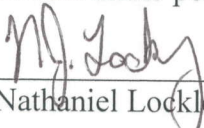
25. Pursuant to Fla. Stat. § 448.08, Plaintiff is entitled to the costs of this action and a reasonable attorneys' fee.

WHEREFORE, Plaintiff demands judgment against Defendant for the unpaid wages found to be due and owing, prejudgment interest, reasonable attorneys' fees and

costs incurred in this action, and any and all further relief this Court deems just and appropriate.

Dated this 29th day of November 2016.

I affirm under penalty of perjury that the factual statements set forth above are true and correct under penalty of perjury.

  
\_\_\_\_\_  
Nathaniel Lockley

**s/ W. John Gadd**  
\_\_\_\_\_  
W. John Gadd  
FL Bar Number 463061  
Bank America Building  
2727 Ulmerton Rd Ste 250  
Clearwater, FL 33762  
Tel – (727)524-6300  
Email –  
wjg@mazgadd.com

JS 44 (Rev. 11/15)

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**

NATHANIEL LOCKLEY, individually and on behalf of those similarly situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number)  
 W. John Gadd, Esq.  
 2727 Ulmerton Rd., Suite 250  
 Clearwater, FL 33762

**DEFENDANT'S**

EBS SECURITY, INC.,

County of Residence of First Listed Defendant **Duval**  
 (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)  
 UNKNOWN

**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)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input checked="" 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	<b>PERSONAL INJURY</b> <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	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input checked="" 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	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <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)) <b>FEDERAL TAX SUITS</b> <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"/> 376 Qui Tam (31 USC 3729(a)) <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
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment Accommodations <input type="checkbox"/> 445 Amer. w Disabilities - Employment <input type="checkbox"/> 446 Amer. w Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	

**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  
 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):

29 USC 201-216  
 Brief description of cause:  
 FLSA - WAGE AND HOUR

**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 11/30/2016 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # **Jax** AMOUNT **400.00** APPLYING IFP JUDGE **39** MAG. JUDGE: **JBT**  
**0002.85**

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Over Unpaid Overtime Filed Against EBS Security](#)

---