

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
NEWMAN DIVISION**

CASE NO: 3:18-cv-56-TCB

DAVID POOLE, on behalf of himself
and those similarly situated,

Plaintiff,

v.

MERIWETHER COUNTY, GEORGIA

Defendant.

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, DAVID POOLE (“Plaintiff”), on behalf of himself and other non-exempt “Firefighters” and former employees similarly situated, by and through undersigned counsel, files this Complaint against Defendant, MERIWETHER COUNTY, GEORGIA (“Defendant”), and states as follows:

NATURE OF THE ACTION

1. Plaintiff alleges on behalf of himself and other similarly situated current and former non-exempt employees of the Defendant, who elect to opt-in to this action, pursuant to the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 216(b), that they are:
(i) entitled to unpaid wages from Defendant for overtime work for which they did not

receive overtime premium pay, as required by law, (ii) entitled to liquidated damages pursuant to the FLSA, 29 U.S.C. §§201 et seq; (iii) entitled to declaratory relief pursuant to 28 U.S.C. §2201 and (iv) entitled to an award of attorneys' fees and costs.

JURISDICTION

2. Jurisdiction in this Court is proper as the claims are brought pursuant to the Fair Labor Standards Act, as amended (29 U.S.C. §201, et seq., hereinafter called the "FLSA") to recover unpaid overtime compensation, an additional equal amount as liquidated damages; obtain declaratory relief, and reasonable attorneys' fees and costs.

3. The jurisdiction of the Court over this controversy is based upon 29 U.S.C. §216(b).

4. This Court has the authority to grant declaratory relief pursuant to the FLSA and the Federal Declaratory Judgment Act ("DJA"), 28 U.S.C. §§ 2201-02.

5. Venue is proper in this Court because Defendant's principal place of business is within this District.

6. Further, the acts and omissions that form the basis of the lawsuit (ie. Defendant's establishment and enforcement of its company-wide payroll policies) occurred within this District.

PARTIES

7. At all times material hereto, Plaintiff was a resident of Columbus, Muscogee County, Georgia.

8. Further at all times material hereto, Plaintiff was employed by Defendant as a non-exempt “Firefighter” and performed related activities for Defendant in Meriwether County, Georgia.

9. At all times material hereto Defendant was, and continues to be, organized and existing under the laws of the State of Georgia. Further, at all times material hereto, Defendant was, and continues to be, engaged in business in Georgia, with their principal place of business in Greenville, Meriwether County, Georgia.

COVERAGE

10. At all times material hereto Plaintiff was Defendant’s “employee” within the meaning of the FLSA.

11. At all times material hereto, Defendant was the Plaintiff’s “employer” within the meaning of the FLSA.

12. Defendant was, and continues to be, “employer” within the meaning of the FLSA.

13. At all times material hereto, Defendant was, and continues to be, “an enterprise engaged in commerce” within the meaning of the FLSA.

14. At all times material hereto, Defendant was, and continue to be, an

enterprise engaged in the “production of goods for commerce” within the meaning of the FLSA.

15. At all times material hereto, the annual gross revenues of Defendant were in excess of \$500,000.00 per annum.

16. At all times material hereto, Defendant had two (2) or more employees handling, selling, or otherwise working on goods or materials that had been moved in or produced for commerce.

17. At all times hereto, Plaintiff was “engaged in commerce” and subject to individual coverage of the FLSA.

18. At all times hereto, Plaintiff was engaged in the “production of goods for commerce” and subject to the individual coverage of the FLSA.

STATEMENT OF FACTS

19. Plaintiff was employed by Defendant as a non-exempt “Firefighter” responding to medical calls at the Meriwether County Fire Rescue.

20. Plaintiff worked for Defendant in this capacity from January 2011 and continuing through June 2017.

21. At all times material hereto, Plaintiff was a non-exempt “Firefighter” and was paid solely on an hourly basis for all work performed for Defendant.

22. At all times material hereto, Plaintiff worked in excess of forty (40)

hours per week for which Plaintiff was not compensated at the statutory rate of one and one-half times Plaintiff's regular rate of pay.

23. Plaintiff, and those similarly situated to him, routinely worked in excess of forty (40) hours per week as part of their regular job duties.

24. Despite the fact that Plaintiff, and those similarly situated to him, worked more than forty (40) hours per week, Defendant failed to pay Plaintiff, and those similarly situated to him, overtime compensation at a rate of one and one-half times his regular rate of pay for hours worked over forty (40) in a workweek.

25. Defendant have employed and continue to employ many of other individuals as non-exempt "Firefighters," paid on an hourly rate basis, who performed and continue to perform the same or similar job duties under the same pay policies as Plaintiff.

26. Defendant has violated Title 29 U.S.C. §207 from January 2011 and continuing through June 2017, in that:

- a. Plaintiff worked in excess of forty (40) hours per week for his period of employment with Defendant;
- b. No payments, or insufficient payments and/or provisions for payment, have been made by Defendant to properly compensate Plaintiff at the statutory rate of one and one-half times Plaintiff's regular rate for those

hours worked in excess of forty (40) hours per work week as provided by the FLSA; and

- c. Defendant has failed to maintain proper time records as mandated by the FLSA.

COUNT I
VIOLATION OF 29 U.S.C. §207 OVERTIME COMPENSATION

27. Plaintiff realleges and reaver paragraphs 1 through 26 the Complaint as if fully set forth herein.

28. Plaintiff was, and is, entitled to be paid at the statutory rate of one and one-half times Plaintiff's regular rate of pay for those hours worked in excess of forty (40) hours.

29. At all times material hereto, Defendant failed, and continues to fail, to maintain proper time records as mandated by the FLSA.

30. To date, Defendant continue to fail to pay their "Firefighters" and similarly situated employees their FLSA mandated overtime pay, despite their recognition that their position is non-exempt and entitled to same.

31. Defendant' actions in this regard were/are willful and/or showed/show reckless disregard for the provisions of the FLSA as evidenced by their continued failure to compensate Plaintiff at the statutory rate of one and one-half times

Plaintiff's regular rate of pay for the hours worked in excess of forty (40) hours per weeks when they knew, or should have known, such was, and is due.

32. Defendant has failed to properly disclose or apprise Plaintiff of Plaintiff's rights under the FLSA.

33. Due to the intentional, willful, and unlawful acts of Defendant, Plaintiff suffered and continues to suffer damages and lost compensation for time worked over forty (40) hours per week, plus liquidated damages.

34. Plaintiff is entitled to an award of reasonable attorneys' fees and costs pursuant to 29 U.S.C. §216(b).

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully request that this Court grant the following relief:

- a. A declaratory judgment that the practices complained of herein are unlawful under the FLSA;
- b. An injunction against the Defendant and its officers, agents, successors, employees, representatives and any and all persons in concert with it, as provided by law, from engaging in each of the unlawful practices, policies and patterns set forth herein;
- c. An award for overtime compensation due under the FLSA;
- d. An award of liquidated damages as a result of the Defendant's willful

failure to pay overtime compensation pursuant to 29 U.S.C § 216;

- e. An award of prejudgment and post judgment interest;
- f. An award of costs and expenses of this action together with reasonable attorneys' and expert fees; and
- g. Such other and further relief as this Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, plaintiff demands a trial by jury on all questions of fact raised by the complaint.

Dated this 22nd day of May, 2018.

Respectfully submitted,

/s/ Andrew R. Frisch
ANDREW R. FRISCH, ESQ.
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CIVIL COVER SHEET

The JS44 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 is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)

DAVID POOLE, on behalf of himself and those similarly situated,

DEFENDANT(S)

MERIWETHER COUNTY, GEORGIA

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Muscogee, GA (EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (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, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

Andrew R. Frisch, Esq. / Morgan & Morgan, P.A. 600 N Pine Island Road, Suite 400 Plantation, FL 33324 Ph: 954-318-0268 / Fax: 954-327-3013 afrisch@forthepeople.com

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) (FOR DIVERSITY CASES ONLY)

- PLF DEF PLF DEF 1 CITIZEN OF THIS STATE 4 INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE 2 CITIZEN OF ANOTHER STATE 5 INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE 3 CITIZEN OR SUBJECT OF A FOREIGN COUNTRY 6 FOREIGN NATION

IV. 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 District), 6 MULTIDISTRICT LITIGATION - TRANSFER, 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT, 8 MULTIDISTRICT LITIGATION - DIRECT FILE

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 216(b) for unpaid overtime compensation.

(IF COMPLEX, CHECK REASON BELOW)

- 1. Unusually large number of parties. 2. Unusually large number of claims or defenses. 3. Factual issues are exceptionally complex. 4. Greater than normal volume of evidence. 5. Extended discovery period is needed. 6. Problems locating or preserving evidence. 7. Pending parallel investigations or actions by government. 8. Multiple use of experts. 9. Need for discovery outside United States boundaries. 10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIPT # AMOUNT \$ APPLYING IFP MAG. JUDGE (IFP) JUDGE MAG. JUDGE (Referral) NATURE OF SUIT CAUSE OF ACTION

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
120 MARINE
130 MILLER ACT
140 NEGOTIABLE INSTRUMENT
151 MEDICARE ACT
160 STOCKHOLDERS' SUITS
190 OTHER CONTRACT
195 CONTRACT PRODUCT LIABILITY
196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
220 FORECLOSURE
230 RENT LEASE & EJECTMENT
240 TORTS TO LAND
245 TORT PRODUCT LIABILITY
290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
315 AIRPLANE PRODUCT LIABILITY
320 ASSAULT, LIBEL & SLANDER
330 FEDERAL EMPLOYERS' LIABILITY
340 MARINE
345 MARINE PRODUCT LIABILITY
350 MOTOR VEHICLE
355 MOTOR VEHICLE PRODUCT LIABILITY
360 OTHER PERSONAL INJURY
362 PERSONAL INJURY - MEDICAL MALPRACTICE
365 PERSONAL INJURY - PRODUCT LIABILITY
367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
371 TRUTH IN LENDING
380 OTHER PERSONAL PROPERTY DAMAGE
385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 440 OTHER CIVIL RIGHTS
441 VOTING
442 EMPLOYMENT
443 HOUSING/ ACCOMMODATIONS
445 AMERICANS with DISABILITIES - Employment
446 AMERICANS with DISABILITIES - Other
448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
510 MOTIONS TO VACATE SENTENCE
530 HABEAS CORPUS
535 HABEAS CORPUS DEATH PENALTY
540 MANDAMUS & OTHER
550 CIVIL RIGHTS - Filed Pro se
555 PRISON CONDITION(S) - Filed Pro se
560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
720 LABOR/MGMT. RELATIONS
740 RAILWAY LABOR ACT
751 FAMILY and MEDICAL LEAVE ACT
790 OTHER LABOR LITIGATION
791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT
835 PATENT-ABBREVIATED NEW DRUG APPLICATIONS (ANDA) - a/k/a Hatch-Waxman cases

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395ff)
862 BLACK LUNG (923)
863 DIWC (405(g))
863 DIWW (405(g))
864 SSID TITLE XVI
865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
376 Qui Tam 31 USC 3729(a)
400 STATE REAPPORTIONMENT
430 BANKS AND BANKING
450 COMMERCE/ICC RATES/ETC.
460 DEPORTATION
470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
480 CONSUMER CREDIT
490 CABLE/SATELLITE TV
890 OTHER STATUTORY ACTIONS
891 AGRICULTURAL ACTS
893 ENVIRONMENTAL MATTERS
895 FREEDOM OF INFORMATION ACT
899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTI TRUST
850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION (Confirm / Vacate / Order / Modify)

* PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3

VII. REQUESTED IN COMPLAINT:

[X] CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$

JURY DEMAND [X] YES [] NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE DOCKET NO.

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

[] 7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. , WHICH WAS DISMISSED. This case [] IS [] IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

Andrew R. Frisch

5/22/2018

SIGNATURE OF ATTORNEY OF RECORD

DATE

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Meriwether County, Georgia Facing Unpaid Overtime Lawsuit](#)
