

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

**OLMEDO VASQUEZ-SAAVEDRA,
FELIX PEREZ, LUIS ROBLES and
OMAR MARTINEZ, on behalf of themselves
and others similarly situated,**

Plaintiffs,

Case No.:

v.

**BLUEGREEN VACATIONS UNLIMITED, INC.,
d/b/a THE FOUNTAINS RESORT, and
KEN MORGAN, individually,**

Defendants.

_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs, OLMEDO VASQUEZ-SAAVEDRA, FELIX PEREZ, LUIS ROBLES, and OMAR MARTINEZ, on behalf of themselves and other similarly situated employees, bring this action for unpaid overtime compensation, and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. 216(b) (the “FLSA”) against BLUEGREEN VACATIONS UNLIMITED, INC., d/b/a THE FOUNTAINS RESORT (“Bluegreen”) and KEN MORGAN, individually (collectively “Defendants”).

INTRODUCTION

1. Plaintiffs, on behalf of themselves and others similarly situated, bring this action against Defendants seeking legal relief and compensation because Defendants violated their federally protected rights under the Fair Labor Standards Act, 29 U.S.C. 201, *et. seq.*

2. Plaintiffs worked in “Front Line” and “In House” sales and marketing positions at The Fountains Resort in Orlando, Florida, selling “vacation ownership” opportunities to

prospective buyers and “upgrades” to existing owners.

3. Typically, prospects attended group presentations touting the benefits of vacation ownership. Upon conclusion of the group presentation, Plaintiffs’ job was to convince prospects to purchase vacation ownership packages, *i.e.* close the deal and sell the timeshares. Plaintiffs worked exclusively on The Fountains property and did not solicit outside sales.

4. Pursuant to the Fair Labor Standards Act, Plaintiffs and others similarly situated, were non-exempt employees and therefore entitled to overtime for all hours worked over 40 in each workweek. However, Defendants refused to pay Plaintiffs and others similarly situated the overtime wages to which they were lawfully and contractually entitled.

5. Defendants violated the FLSA by, *inter alia* requiring Plaintiffs and others to work “off the clock” so Defendants did not have to pay them overtime compensation. Defendants used threats, intimidation and falsified time records to ensure employees were never paid overtime. As a result, employee time records rarely, if ever, reflected more than 40 hours worked per week. However, Plaintiffs and others similarly situated regularly worked 60-80 hours per week without receiving overtime compensation.

PARTIES

6. Plaintiff Olmedo Vasquez-Saavedra, worked in various Front Line and In House sales positions at The Fountains Resort between March, 2011 until August, 2016.

7. Plaintiff Felix Perez worked in various Front Line and In House sales positions at The Fountains Resort between January, 2010 and July, 2015.

8. Plaintiff Luis Robles worked in various Front Line and In House sales positions at The Fountains Resort between June, 2011 and June, 2015.

9. Plaintiff, Omar Martinez worked in various sales representative positions at the Fountains Resort between August, 2012 and January, 2015.

10. Defendant, Bluegreen Vacations Unlimited, Inc. manages and markets timeshare

resorts located throughout the United States and Caribbean. Bluegreen's corporate headquarters is located at 4960 Conference Way North, Boca Raton, Florida. The Fountains, the property at which Plaintiffs and others similarly situated were employed, is located at 12400 International Drive South, Orlando, Florida.

11. Defendant, Ken Morgan, has at all times relevant been the Sales Director of The Fountains Resort. As Sales Director, Mr. Morgan dictated the unlawful Bluegreen's unlawful policies and practices, managed and controlled Plaintiffs' daily work activities and had the authority to discipline and terminate Plaintiffs.

STATEMENT OF FACTS

12. This action is brought under the FLSA to recover from Defendants overtime compensation, liquidated damages, and reasonable attorneys' fees and costs.

13. This court has jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. §1337 and the FLSA.

14. Venue is proper in this Court because the violations of law alleged in this action occurred in Orange County, Florida.

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

16. Defendant Bluegreen markets and sells timeshares throughout the United States and Caribbean. Defendant Bluegreen has had gross revenues of at least \$500,000.00 annually for the preceding three years and has employed employees engaged in commerce or in the production of goods for commerce. Specifically, Bluegreen's employees handle, sell and otherwise work on goods that have been moved in or produced for interstate commerce, including marketing materials, pens and paper.

17. At all times relevant to this action, Plaintiffs and others similarly situated were employees of Defendants as defined by the FLSA.

18. At all times relevant to this action, Plaintiffs and others similarly situated were non-exempt employees pursuant to the FLSA and were therefore entitled to overtime compensation.

19. At all times relevant to this action, Defendants failed to comply with 29 U.S.C. §§ 201-209, because Defendants did not pay Plaintiffs and others similarly situated overtime wages for those hours worked in excess of forty (40) within a work week.

20. While employed by Bluegreen in the three years preceding the filing of this Complaint, Plaintiffs and others similarly situated were not paid time and one-half their regular rate of pay for all hours worked in excess of forty (40) within a work week during one or more weeks of employment.

21. Defendants used intimidation, coercion to ensure time records were falsified. Defendant Ken Morgan and others working under his direction required employees to falsify their time records to reflect less than forty hours per week even though the employees worked more than 40 hours per week. Defendant Ken Morgan and other management personnel repeatedly threatened to terminate Plaintiffs if they did not falsify their time records to show less than 40 hours worked every week.

22. To keep their jobs, Plaintiffs did as instructed. Specifically, Plaintiffs were required by their superiors to clock out but continue working, often an additional 5-10 hours per day. Plaintiffs did not have a choice. If Plaintiffs did not do as they were instructed by their superiors, they would have been terminated.

23. By forcing Plaintiffs to punch out but continue working, Plaintiffs' time records showed less than 40 hours worked per week. In reality, Plaintiffs worked closer to an average of 60-80 hours per week. In essence, Plaintiffs were forced to falsify their own time records.

24. Defendants knew Plaintiffs were non-exempt employees entitled to overtime because the job descriptions and other documents drafted by Defendants designated Plaintiff's

status as “non-exempt.”

25. Defendants know Plaintiffs were working more than 40 hours per week without receiving overtime compensation.

26. Additionally, Defendants adjusted Plaintiffs time records after the fact to ensure the hours work reflected in the records were less than 40 hours.

27. Upon information and belief, Defendants did not rely on any Department of Labor Wage and Hour Opinions or the advice of an attorney in creating its pay policies.

28. Defendants are a sophisticated employer with the resources to ensure compliance with the FLSA. Therefore, Defendants knew or should have known with reasonable diligence that their conduct violated the Fair Labor Standards Act.

COUNT I
RECOVERY OF OVERTIME COMPENSATION

29. Plaintiffs reincorporate and readopt all allegations contained in Paragraphs 1-28 above.

30. Plaintiffs were entitled to be paid time and one-half times their regular rate of pay for each hour worked in excess of forty (40) per work week.

31. During their employment with Defendants, Plaintiffs regularly worked overtime hours but were not paid time and one-half compensation for the same.

32. As a result of Defendants’ intentional, willful, and unlawful acts in refusing to pay Plaintiffs time and one-half their regular rate of pay for each hour worked in excess of forty (40) per work week in one or more work weeks, Plaintiffs have suffered damages and are incurring reasonable attorneys’ fees and costs.

33. Defendants were aware Plaintiffs performed non-exempt job duties but still refused to pay Plaintiff overtime for hours worked over forty (40).

34. Defendants did not maintain and keep accurate time records as required by the

FLSA for Plaintiffs.

35. Defendants failed to post required FLSA informational listings as required by the FLSA.

36. Defendants' conduct was in reckless disregard of the overtime requirements of the FLSA.

37. Defendants willfully violated the FLSA.

38. Plaintiffs are entitled to liquidated damages.

39. Plaintiffs demand a trial by jury.

WHEREFORE, Plaintiff demands judgment against Defendants for the payment of all overtime hours worked at one and one-half the regular rate of pay for which Defendants did not properly compensate them, liquidated damages, reasonable attorneys' fees and costs incurred in this action, and all further relief that this Court deems to be just and appropriate.

COUNT II
COLLECTIVE ACTION, VIOLATION OF FLSA
(FAILURE TO PAY OVERTIME)

40. Plaintiffs reallege paragraphs 1-28as if fully set forth herein.

41. Defendants employed numerous other non-exempt In House and Front Line sales representatives who worked a substantial number of hours in excess of forty (40) per week.

42. These employees performed the same job duties as Plaintiffs, worked under the same supervisors and were subject to the same terms and conditions of employment. Defendants failed to pay these individuals similarly situated to Plaintiffs one and one half times their regular hourly rate, for all hours worked in excess of forty (40) in each week, in violation of the FLSA.

43. Defendants' failure to pay such similarly situated individuals the required overtime rate was willful and in reckless disregard of the FLSA.

44. As a direct and legal consequence of Defendants unlawful acts, individuals

similarly situated to Plaintiffs have suffered damages and have incurred, or will incur, costs and attorneys' fees in the prosecution of this matter.

WHEREFORE, Plaintiffs demand that similarly situated employees have judgment entered against Defendants for the payment of all overtime hours at one and one-half the regular rate of pay for the hours worked over forty for which Defendants did not properly them, liquidated damages, reasonable attorneys' fees and costs incurred in this action, and all further relief that this Court deems to be just and appropriate.

JURY DEMAND

Plaintiff demands trial by jury on all issues so triable as a matter of right by jury.

Respectfully submitted, this 25th day of October, 2016.

MORGAN & MORGAN, P.A.

/s/ Marc R. Edelman
MARC R. EDELMAN, ESQ.
Fla. Bar No. 0096342
Morgan & Morgan, P.A.
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Attorney for Plaintiff

JS 44 (Rev. 11/15)

CIVIL COVER SHEET

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

OLMEDO VASQUEZ-SAAVEDRA, FELIX PEREZ, LUIS ROBLES and OMAR MARINEZ, on behalf of themselves and others similarly situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

MARC R. EDELMAN, ESQ. 201 N. FRANKLIN STREET #700
MORGAN & MORGAN TAMPA, FL 33602 (813) 577-4722

DEFENDANTS

BLUEGREEN VACATIONS UNLIMITED, INC d/b/a THE FOUNTAINS RESORT and KEN MORGAN individually

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

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

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 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	PERSONAL INJURY <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	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <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 IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <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)) FEDERAL TAX SUITS <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

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

FLSA

Brief description of cause:
Unpaid overtime

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
10/25/2016

SIGNATURE OF ATTORNEY OF RECORD

Marc Edelman

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

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