

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Nakia Stephens, Katelynne Crawford, and
Carmen Cruz, On Behalf of Themselves
and All Others Similarly Situated

Plaintiffs,

v.

Shoretel SC LLC, and Tim Zhuta,
individually

Defendants.

CIVIL ACTION NO.: _____

COLLECTIVE ACTION COMPLAINT
(Jury Trial Requested)

Plaintiffs Nakia Stephens, Katelynne Crawford and Carmen Cruz, individually, and on behalf of all others similarly situated, by way of their Complaint, allege and show unto this Honorable Court the following:

NATURE OF CLAIM

1. Plaintiffs bring this lawsuit seeking recovery against Defendants for Defendants’ overtime violations under the Fair Labor Standards Act, as amended (the “FLSA” or the “Act”), 29 U.S.C. §201 et. seq.

2. The Plaintiffs bring this action as a collective action pursuant to 29 U.S.C. §216(b) on behalf of themselves and other similarly situated employees of the Defendants who suffered damages as a result of Defendants’ violations of the FLSA.

PARTIES, JURISDICTION AND VENUE

3. Plaintiff Nakia Stephens is a citizen and a resident of Greenwood, Indiana; however at all times relevant to this complaint she lived in Horry County, South Carolina.

4. Plaintiff Katelynne Crawford is a citizen and a resident of Horry County, South Carolina.

5. Plaintiff Carmen Cruz is a citizen and a resident of Horry County, South Carolina.

6. Defendant, Shoretel LLC of SC (“Shoretel”), is a for-profit corporation, registered with the South Carolina Secretary of State.

7. Defendant, Tim Zhuta, is a General Manager at Shoretel, a for profit corporation that employs persons such as Plaintiffs and other similarly situated customer service representatives to work on his behalf in providing labor for the business. Defendant is within the personal jurisdiction and venue of this Court.

8. Venue is proper in this District because the Defendants have conducted substantial, continuous and systematic commercial activities in Horry County. Additionally, the unlawful labor practices and policies giving rise to Plaintiff’s claims were committed in the Florence Division of this Court.

9. This Court has jurisdiction of the Plaintiffs’ claims brought under the FLSA pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 216 (b).

FACTS

10. Defendant Shortel is a telecommunications vendor providing unified communications for businesses.

11. Shoretel owns and operates call centers in centralized offices throughout the country.

12. Defendant Tim Zhuta is the General Manager of the call center where the Plaintiffs worked. Defendant Zhuta acted directly and/or indirectly in the interest of Defendants in relation to Plaintiffs and similarly situated employees. Defendant Zhuta managed and operated, the call center and regularly exercised the authority to hire and fire employees, determine the work schedules of employees, set the rate of pay of employees, and control the finances and operations of such business. By such control and authority, Defendant Zhuta was an employer of Plaintiffs as such term is defined by the Act. 29 U.S.C. §201 *et seq.*

13. Plaintiffs were employed at an inbound call center to administer incoming product support for consumers throughout the country. The call center was located at 4221 N. Kings Highway in Myrtle Beach, South Carolina.

14. Plaintiffs were employed as customer services representatives. Plaintiffs' primary duties involved entering customer names, addresses, dates of birth, along with other identifying information into a software program. Plaintiffs were also required to obtain a Third Party Authorization (TPA) for each customer, this required Plaintiffs to obtain a recorded authorization of the customers verbally agreeing to the purchase of the product or service.

15. Plaintiff Nakia Stephens was employed by the Defendants from approximately October of 2014 until approximately June 2016.

16. Plaintiff Katelynne Crawford was employed by the Defendants from approximately August of 2014 until approximately May of 2016.

17. Plaintiff Carmen Cruz was employed by the Defendants from approximately September of 2014 until approximately June of 2016.

18. Plaintiffs and other similarly situated customer service representatives had an employment agreement with the Defendants, whereby the Defendants agreed to pay them an hourly wage for all hours worked and this compensation would be consistent with all applicable laws, including federal and state wage and hour laws

19. Plaintiffs regularly worked six (6) days a week. Plaintiffs were not paid an hourly rate for the work they performed on Saturdays. Instead of paying an hourly rate for the work they performed on Saturdays, the Defendants paid Plaintiffs and other similarly situated customer service representatives a “bonus” of fifty (\$50.00) to eighty (\$80.00) dollars.

20. The Defendants did not include the time Plaintiffs and other similarly situated customer service representatives spent working on Saturdays in their weekly hours. This caused Plaintiffs and similarly situated customer service representatives to work longer than forty (40) hours in a week without being compensated at a rate of one-and-a-half times their regular rate of pay as required by 29 U.S.C. § 207(a).

21. Plaintiffs and similarly situated customer service representatives were not able to take a bone fide meal break of at least thirty (30) minutes.

22. Plaintiffs and similarly situated customer service representatives were not compensated for their meal breaks.

23. Plaintiffs and similarly situated customer service representatives meal breaks were twenty (20) minutes or less. The time allotted for Plaintiffs and similarly situated customer service representatives to eat was too short of a time to constitute a bona fide meal period.

24. Pursuant to 29 CFR 785.18, rest periods of short duration, running from five (5) minutes to about twenty (20) minutes, must be counted as hours worked.

25. Plaintiffs were subject to disciplined if they took longer than a twenty (20) minute meal break.

26. Defendants did not compensate Plaintiffs and similarly situated customer service representatives for mandatory pre-shift meetings that took place approximately fifteen minutes (15) prior to their shift. Plaintiffs were required to attend the daily meeting prior to each shift. Plaintiffs were subject to discipline if they did not attend the meetings or were late to the meetings.

27. Defendants knew that Plaintiffs and similarly situated customer service representatives were working “off the clock” and not being paid their agreed wages for the pre-shift meeting. Defendant Zhuta was regularly present for these “off the clock” meetings.

28. The daily meetings were an integral and indispensable to the principal activities of the Plaintiffs’ job. During the meetings, Plaintiffs and similarly situated customer service representatives were instructed about following protocol and mistakes that customers’ services had made that result in a sale being invalid.

29. Plaintiffs and similarly situated customer service representatives regularly worked approximately ten (10) to twelve (12) hours a week without receiving overtime compensation.

30. At all times, relevant to this complaint, Plaintiffs and other similarly situated employees were non-exempt employees for purposes of the overtime compensation provisions of the FLSA.

31. Because of the Defendants’ policies and practices set forth above, the Defendants violated the rights of the Plaintiffs and similarly situated customers service representatives by failing to pay these employees time and half of their hourly wage.

32. Defendants actions were not in good faith or based upon a reasonable belief that they were not violating applicable laws.

FOR A FIRST CAUSE OF ACTION

(Fair Labor Standards Act–Failure to Pay Overtime Wages)
(Individual and Collective Action)

33. Plaintiffs, on behalf of themselves and all similarly situated employees, reallege and incorporate by reference all preceding paragraphs as if they were set forth herein verbatim.

34. At all times, pertinent to this Complaint, each Defendant was an “enterprise engaged in commerce or in the production of goods for commerce” as that term is defined by 29 U.S.C. § 203(s).

35. At all times, pertinent to this Complaint, Plaintiffs and similarly situated employees were “engaged in commerce or in the production of goods for commerce” as that term is defined within 29 U.S.C. §207.

36. At all times, relevant herein, each Defendant was an “employer” of Plaintiffs and similarly situated employees as that term is defined by 29 U.S.C. § 203(d) of the Fair Labor Standards Act.

37. Defendants required Plaintiffs and similarly situated employees to work “off the clock” by failing to compensate them for the mandatory pre-shift meetings during a workweek for which they were “employed” as that term is defined under 29 U.S.C. § 203(g) of the Fair Labor Standards Act.

38. Defendants employed Plaintiffs and similarly situated employees for workweeks longer than forty (40) hours without compensating Plaintiffs and similarly situated employees at a rate of one-and-a-half times their regular rate of pay as required by 29 U.S.C. § 207(a).

39. Plaintiffs and similarly situated employees are entitled to unpaid overtime compensation at the rate of one-and-a-half times their regular rate of pay for all hours worked in excess of forty (40) hours in a workweek, liquidated damages in an equal amount, and their reasonable attorneys' fees and costs incurred in bringing this action pursuant to 29 U.S.C. § 216(b).

40. Defendants' violations of the FLSA were either willful or in reckless disregard of complying with the FLSA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and all other similarly situated employees, seek judgment against the Defendants as follows:

- a. That this Court certify this action as a collective action pursuant to 29 U.S.C. § 216 (b);
- b. An award of compensatory damages in an amount equal to the unpaid overtime compensation owed to Plaintiffs and similarly situated employees pursuant to 29 U.S.C. § 216(b);
- c. An award of liquidated damages in an amount equal to the award of compensatory damages pursuant to 29 U.S.C. § 216(b);
- d. An award of the reasonable attorneys' fees and costs incurred by Plaintiffs and similarly situated employees in bringing this action; and

e. All such further relief as the Court deems just and equitable.

JURY DEMANDED

Plaintiffs Stephens, Crawford and Cruz on their behalf and on behalf of all other similarly situated employees, hereby demand a trial by jury.

Respectfully submitted,

s/ Marybeth Mullaney
Marybeth Mullaney (Fed. Bar No. 11162)
Mullaney Law
1037-D Chuck Dawley Blvd, Suite 104
Mount Pleasant, South Carolina 29464
(800) 385-8160 Phone & Fax
marybeth@mullaneylaw.net

Attorney for Plaintiffs

October 28, 2016
Mount Pleasant, South Carolina.

CONSENT TO JOIN

1. I hereby consent to become a party plaintiff and make a claim against Shoretel and related entities or persons for overtime and unpaid wages
2. I hereby designate MULLANEY LAW to represent me in bringing my claim and the lead name Plaintiff (as substituted or amended) to serve as my agent and make decisions on my behalf concerning the litigation and settlement, and I agree to be bound by such decisions accordingly
3. I also consent to join any separate or subsequent action to assert my claim against and related companies or persons.
4. I hereby agree to be bound by any adjudication of my claim by the court, whether it is favorable or unfavorable.

Cauman Bly
 Client

09-27-16
 Date

CONSENT TO JOIN

1. I hereby consent to become a party plaintiff and make a claim against Shoretel Inc and related entities or persons for overtime and unpaid wages.
2. I hereby designate MULLANEY LAW to represent me in bringing my claim and the lead name Plaintiff (as substituted or amended) to serve as my agent and make decisions on my behalf concerning the litigation and settlement, and I agree to be bound by such decisions accordingly.
3. I also consent to join any separate or subsequent action to assert my claim against and related companies or persons.
4. I hereby agree to be bound by any adjudication of my claim by the court, whether it is favorable or unfavorable.

Kate Lupine Craunfel
Client

9/27/16
Date

CONSENT TO JOIN

1. I hereby consent to become a party plaintiff and make a claim against Nakia Stephens and related entities or persons for overtime and unpaid wages.
2. I hereby designate MULLANEY LAW to represent me in bringing my claim and the lead name Plaintiff (as substituted or amended) to serve as my agent and make decisions on my behalf concerning the litigation and settlement, and I agree to be bound by such decisions accordingly.
3. I also consent to join any separate or subsequent action to assert my claim against and related companies or persons.
4. I hereby agree to be bound by any adjudication of my claim by the court, whether it is favorable or unfavorable.

DocuSigned by:

Nakia Stephens

C8877222040C49A

Client

10/27/2016

Date

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Wage and Hour Class Action Filed Against ShoreTel SC LLC](#)
