

Nov. 18, 2008

STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMIUNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO.:L. JAMES GIBBS,
on behalf of himself and other
similarly situated employees,**08-81373-Civ-HOPKINS/HURLEY**

Plaintiff,

v.

MARRIOTT INTERNATIONAL, INC.,

Defendant.

COLLECTIVE ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, L. James Gibbs ("Plaintiff"), a former employee of Defendant, MARRIOTT INTERNATIONAL, INC. ("Marriott" or "Defendant"), files this complaint and brings this action on behalf of himself and all misclassified similarly situated timeshare salespersons for unpaid overtime compensation, liquidated damages, attorneys' fees, costs, and other relief under Section 16(b) of the Fair Labor Standards Act, as amended, 29 U.S.C. § 216(b) (the "FLSA").

1. Plaintiff was, for all relevant times, an on-site timeshare salesperson performing related duties for Defendant in, among others, Palm Beach County, Florida. As part of his sales effort, customers would, *inter alia*, receive a deed for the timeshare purchase. Indeed, Defendant's website provides:

In most cases, when you purchase a timeshare from us, you receive a deed – just as you would with a house. So the property is yours indefinitely for the specified week(s) purchased and can be handed down to your heirs for generations of enjoyment.

2. Prior to the June 22, 2007 pay period, Defendant was paying Plaintiff and similarly situated employees \$91 per day, plus commissions and personal bonuses irrespective of the number of hours worked.

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3. Despite regularly working 50 hours per week prior to June 22, 2007, Plaintiff and all similarly situated employees were not paid for *any* overtime hours. Plaintiff and all similarly situated employees are entitled to time and one half the regular rate of pay for all hours in excess of 40 in each work week. The regular rate calculation for Plaintiff, based on the limited records he possesses, will include the following salary, commissions, and personal bonuses:

Pay Period	Salary	Commission	Bonus
5/19/06	455	2470	
7/14/06		774	
7/28/06	455		2538
8/11/06	364	295	
8/18/06	455	91	
8/25/06	364		2493
9/8/06	364	290	
9/22/06	455		
9/29/06	273	2750	
10/06/06	455	1062	
10/13/06	455	182	
10/20/06	455		
11/3/06	91	495	
11/10/06	364		748
11/17/06	455	756	
11/24/06	455		1754
12/1/06	455	2805	
12/8/06	455	91	
12/15/06	455	10602	300
12/22/06	455		2700
12/29/06	346		
1/12/07	455		5000
1/19/07	455		
1/26/07	455		
2/2/07	455		
2/9/07	273		
2/16/07	455		
2/23/07	364	1066	
3/2/07	455	3646	
3/9/07	455		1742
3/16/07	455	120	
3/23/07	455		
3/30/07	455	91	
4/13/07	455		2900
4/20/07	455	933	

4/27/07	455	1965	
5/4/07	364	2076	
5/25/07	455	2780	
6/1/07	364	1820	4336
6/8/07	273	654	
6/15/07	455	4020	

4. Defendant failed to pay Plaintiff and all similarly situated employees overtime compensation for hours worked in excess of 40 in any work week prior to June 22, 2007 and within the three years preceding the filing of this Complaint.

Jurisdiction and Venue

5. Defendant operates and conducts business in, among others Palm Beach County Florida, and is therefore, within the jurisdiction of this Court.

6. At all times material hereto, Defendant was an “employer” within the meaning of the FLSA.

7. This action is brought under the FLSA to recover from Defendant unpaid overtime compensation, liquidated damages, and reasonable attorneys’ fees and costs.

8. This Court has jurisdiction over Plaintiff’s claims pursuant to 28 U.S.C. §1337 and the FLSA.

9. At all material times relevant to this action, Defendant was an enterprise engaged in interstate commerce as defined by § 3(r) and 3 (s) of the FLSA, 29 U.S.C. § 203(r) and 203 (s). Additionally, Plaintiff was individually engaged in interstate commerce during his employment with Defendant.

10. At all times relevant to this action, Defendant failed to comply with 29 U.S.C. §§ 201-209, because Defendant willfully and deliberately failed to pay Plaintiff and other similarly situated employees, overtime pay for hours worked in excess of 40 in any work week.

11. Plaintiff's employment with Defendant provided for compensation, \$91 daily, plus commissions and personal bonuses, but Defendant deliberately failed to pay time and one-half the regular rate of pay for all hours worked above forty (40) within a work week until June 22, 2007 when Defendant began attempting to comply with its overtime obligations under the FLSA.

12. As a result of Defendant's actions described above, Plaintiff was not paid one and one-half his regular rate of pay for each hour worked in excess of forty (40) hours per work week during many work weeks prior to June 22, 2007.

13. The time records and other documentation concerning the number of hours Plaintiff worked, and amounts paid to Plaintiff are in the possession and custody of Defendant.

COUNT I

FLSA – RECOVERY OF OVERTIME COMPENSATION

14. Plaintiff reincorporates and re-adopts all allegations contained within Paragraphs 1-13 above.

15. Plaintiff, and all similarly situated employees, is entitled to be paid time and one-half his regular rate of pay for each hour worked in excess of forty (40) per work week.

16. During his employment with Defendant, Plaintiff regularly worked in excess of 40 hours per workweek without receiving overtime compensation. Similarly situated employees worked in excess of 40 hours per work week and were also not provided with overtime compensation.

17. As a result of Defendant's intentional, willful, and unlawful acts in refusing to pay Plaintiff time and one half his regular rate of pay for each hour worked in excess of forty (40) in one or more work weeks, Plaintiff has suffered damages and been compelled to incur reasonable attorneys' fees and costs.

18. As a result of Defendant's willful violation of the FLSA, Plaintiff is entitled to liquidated damages in an amount equal to his unpaid overtime wages.

DEMAND FOR JURY TRIAL

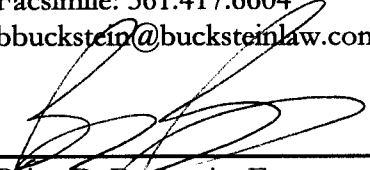
19. Plaintiff demands a trial by jury on all issues so triable.

WHEREFORE, Plaintiff demands judgment against Defendant for the payment of compensation for all unpaid overtime hours at one and one-half times the regular rate of pay for the hours worked by him for which Defendant did not compensate him, 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.

DATED: November 14, 2008

Respectfully submitted,

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Fla. Bar No. 0618934

CIVIL COVER SHEET

FILED by RB D.C. ELECTRONIC

Nov. 18, 2008

STEVEN M. LARIMORE CLERK U.S. DIST. CT. S.D. OF FLA. - MIAMI

JS 44 (Rev. 2/08)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers...

I. (a) PLAINTIFFS

L. James Gibbs

DEFENDANTS

Marriott International, Inc.

(b) County of Residence of First Listed Plaintiff Palm Beach

County of Residence of First Listed Defendant

(c) Attorney's (Firm Name, Address, and Telephone Number)

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

Brian Buckstein, P.A. 2424 N. Federal Hwy., Suite 251 Boca Raton, FL 33431

Attorneys (If Known)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

IV. NATURE OF SUIT

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN

- 1 Original Proceeding
2 Removed from State Court
3 Re-filed
4 Reinstated or Reopened
5 Transferred from another district
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VI. RELATED/RE-FILED CASE(S)

a) Re-filed Case YES NO b) Related Cases YES NO

VII. 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): Violation of 29 U.S.C. 201 et seq. by failing to provide overtime pay.

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF ATTORNEY OF RECORD

DATE

S/

Handwritten signature of attorney

11/14/08

FOR OFFICE USE ONLY

AMOUNT

RECEIPT #

725040