

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. **09-CV-60416-Graham-Torres**

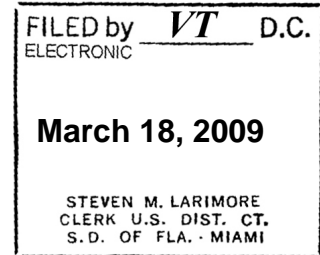
KEVIN CURRAN, on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

THE WACKENHUT CORPORATION, a
Florida corporation,

Defendant.



COMPLAINT AND JURY TRIAL DEMAND

Plaintiff KEVIN CURRAN, through undersigned counsel and on behalf of himself and all others similarly situated, sues Defendant THE WACKENHUT CORPORATION, and alleges as follows:

1. This is an action for unlawful failure to pay overtime as required by the Fair Labor Standards Act, 29 U.S.C. §207(a) ("FLSA"), and its implementing regulations.
2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1331 (federal question) and the provisions of the FLSA.
3. Venue is proper in this Court because the actions and claims asserted herein occurred within the Southern District of Florida.
4. Plaintiff at all relevant times was, and still is, a resident of Broward County, Florida, and is *sui juris*. Plaintiff brings this action on behalf of himself and all others similarly situated.

5. Defendant is, and at all relevant times was, a Florida corporation doing business in Broward, Miami-Dade, and Palm Beach Counties, Florida. Defendant is, and at all relevant times was, in the business of, among other things, providing security services for residential communities in these same counties in Florida.

6. At all relevant times Defendant was, and still is, an “employer” under the FLSA, 29 U.S.C. §§203(r) and 203(s), in that it was an enterprise engaged in interstate commerce or in the production of goods for commerce, or employed employees who engaged in interstate commerce or the production of goods for commerce, or had employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by an person. Defendant had at all relevant times annual gross sales in excess of \$500,000.00.

7. Plaintiff was employed by Defendant from on or about October 12, 2001 until February 20, 2009. During the relevant period of March 12, 2007 until February 20, 2009, Plaintiff was employed by Defendant as the Site Captain, a non-exempt hourly position, on site at a gated residential community located in Delray Beach, Florida. During this period, Plaintiff consistently worked over 40 hours per work week as Site Captain, first at hourly rates of \$17.50 and eventually at hourly rates of \$18.50 per hour. However, Plaintiff was not paid the time-and-a-half hourly wage for these hours worked in excess of 40 hours as required by the FLSA. Instead, while Defendant made payments to Plaintiff for his overtime hours worked, the payments made were not based on his hourly wage as Site Captain, but were based on various and arbitrary lower, and incorrect, hourly wages ranging from \$11.00 per hour to \$14.50 per hour.

8. Under the FLSA, Defendant was obligated to pay Plaintiff, and all similarly situated Site Captains, time-and-a-half of their hourly pay for all time worked in excess of 40

hours per work week. However, during the time Plaintiff worked for Defendant, he and other similarly situated employees worked in excess of 40 hours per work week as Site Captains and were not correctly or fully paid for the overtime work.

9. Despite notice and a demand for payment of correct overtime by Defendant, Defendant as failed and refused to pay Plaintiff, and all similarly situated employees, the required time-and-a-half overtime pay for all hours Plaintiff, and all similarly situated employees, worked in excess of 40 hours per work week, in violation of the FLSA overtime requirements under 29 U.S.C. §207(a).

10. As a direct and proximate result of Defendant's violations of the FLSA, Plaintiff, and those similarly situated to Plaintiff, have suffered damages equal to time-and-a-half of their correct hourly rate of pay for all hours worked in excess of 40 hours per work week, plus liquidated damages as provided under the FLSA.

11. Defendants have engaged, and continue to engage, in their overtime pay violations under the FLSA willfully, intentionally, and in reckless disregard of the rights of Plaintiff, and all those similarly situated, under the law.

12. Plaintiff is entitled to recover his costs, expenses and reasonable attorney's fees under the FLSA. In this regard, Plaintiff has hired the undersigned law firm to represent him in this case and has agreed to pay the firm a reasonable fee for its services.

WHEREFORE, Plaintiff demands judgment on behalf of himself and all those similarly situated against Defendant for all unpaid overtime as required under the FLSA, liquidated damages, costs, expenses, attorney's fees, and such further relief as the Court deems just and equitable.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury of all issues so triable.

DATED: March 17, 2009.

HANNAH & JANKOWSKI
Attorneys for Plaintiff
2 S. University Drive, Suite 265
Plantation, FL 33324
Phone: 954-370-1026
Facsimile: 954-318-6419

By 

Roderick V. Hannah
Fla. Bar No. 435384

JS 44 (Rev. 2/08)

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 THE REVERSE OF THE FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS

KEVIN CURRAN, on behalf of himself and all others similarly situated

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

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

RODERICK V. HANNAH, ESQUIRE, Hannah & Jankowski
2 S. University Drive, Suite 265, Plantation, FL 33324
Telephone: 954-370-1026

DEFENDANTS

THE WACKENHUT CORPORATION, a Florida corporation,

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

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

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 (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 type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input 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 (Excl. 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	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <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"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<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	<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"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <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	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	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	

V. ORIGIN (Place an "X" in One Box Only)

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

VI. RELATED/RE-FILED CASE(S).

(See instructions second page): a) Re-filed Case YES NO b) Related Cases YES NO
JUDGE _____ DOCKET NUMBER _____

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):

29 USC Sec. 201 Fair Labor Standards Act (FLSA) - unpaid overtime claim

LENGTH OF TRIAL via 3 days estimated (for both sides to try entire case)

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

FOR OFFICE USE ONLY

AMOUNT _____

RECEIPT # _____

IFP _____