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Michael Jordan and Mohammed Zeineldin,
individually and on behalf of others
similarly situated

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MICHAEL JORDAN and
MOHAMMED ZEINELDIN,
individually and on behalf of others
similarly situated,

Plaintiffs,

v.

U.S. SECURITY ASSOCIATES, INC.,

Defendant.

:
:
: CIVIL ACTION NO.
:
:
:

COMPLAINT AND DEMAND FOR JURY TRIAL

INTRODUCTORY STATEMENT

1. Plaintiffs bring this class action against defendant pursuant to the Fair Labor Standards Act, 29 U.S.C. § 213, [hereinafter “the FLSA”] and the New Jersey Wage Payment Law, N.J.S.A. 34:11- 56a1, et seq., [hereinafter “the NJWPL”] for failure to pay plaintiffs wages due and owing for hours worked in excess of 40 hours per week.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 as this matter arises under the laws of the United States. The Court has jurisdiction over plaintiff's state law claims pursuant to 28 U.S.C. § 1367(a) as the state law claims and the federal claims are so closely related that they form part of the same case or controversy under Article III of the United States Constitution.

3. Plaintiffs seek class-wide relief under state and federal law against U.S. Security Associates for the actions and omissions discussed herein.

4. Plaintiffs' federal law claims are brought as an "opt-in" collective action pursuant to the FLSA, while the state claims are brought as a conventional class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.

PARTIES

5. Class plaintiffs Michael Jordan and Mohammed Zeineldin are individuals who formerly were employed by defendant at various locations within the state of New Jersey. Plaintiffs bring this action on behalf of themselves and a class of others similarly situated and seek the relief herein.

6. Plaintiff Michael Jordan resides at 19 Georgian Boulevard, Jackson, New Jersey 08527, and was employed by defendant for approximately 1 year during 2003, working as a security guard at American Reassurance in Plainsboro, New Jersey.

7. Plaintiff Mohammed Zeineldin resides at 11-13 Skytop Gardens, Parlin, New Jersey 08859, and was employed by defendant from 1997 until 2003 working as a security guard at Merrill Lynch in Piscataway and Somerset, New Jersey.

8. Defendant U.S. Security Associates, Inc. is one of the five largest uniformed security officer providers in the U.S., headquartered in Roswell, Georgia, and doing business throughout the state of New Jersey.

FACTUAL ALLEGATIONS

10. During the period of time plaintiffs were employed with defendant, it instructed plaintiffs to report at least 15 minutes prior to the start of their scheduled shifts.

11. Defendant gave this instruction or similar instructions to all of its non-supervisory security guard employees working at the locations at which plaintiffs worked, and, upon information and belief, to all non-supervisory security guard employees working throughout the state of New Jersey.

12. During the 15 or more minutes prior to the start of their scheduled shifts, plaintiffs were not permitted to use that time for personal purposes. Rather, defendant required them to wait in a room for the 15 or more minutes until their shifts started.

13. Defendant did not pay plaintiffs for the time they were required to be at work prior to the start of their scheduled shifts.

14. Plaintiffs frequently worked in excess of 40 hours per week, often as a result of being required to report early for their shifts. Defendant did not pay plaintiffs for this time. Defendant also treated other non-supervisory security guard employees similarly.

Class Action Allegations

15. **Class Definition:** Plaintiffs bring this action on behalf of themselves and a class that includes all non-supervisory security guard employees of defendant working throughout the state of New Jersey.

16. Class Too Numerous for Joinder: Defendant employs, and has employed, hundreds of non-supervisory security guard employees throughout the state of New Jersey. These employees are not exempt from the federal and state overtime laws, yet are not being paid overtime as mandated by the FLSA and the NJWPL.

17. Common Questions of Fact: The employment policy and practice of defendant to require its employees to report early to work prior to the start of their scheduled shifts, without being paid for that time, raises questions of fact common to the class.

18. Common Questions of Law: The same question of law is presented for all class members: Does the policy and practice of defendant described above violate the FLSA and the NJWPL?

19. Typicality of Plaintiffs' Claims: The plaintiffs' claims encompass the challenged policy and practice of defendant described above.

20. Protection of Class Interests: Plaintiffs will fairly and adequately protect the interests of the class.

21. Action Maintainable as a Class Action: This action is maintainable as an "opt-in" collective action pursuant to § 16(b) of the FLSA, 29 U.S.C. § 216(b), for FLSA claims and as a conventional class action for state law claims under Fed. R. Civ. P. 23(a) and (b) (1), (2) and (3).

21.1 The prosecution of separate actions by or against individual members of the class would create a risk of:

(A) Inconsistent or varying adjudications with respect to individual members of the class that would establish incompatible standards of conduct for the parties opposing the class (Fed.R.Civ.P. 23 (b) (1) (A)); and

(B) Adjudications with respect to individual members of the class that would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests (Fed.R.Civ.P. 23 (b) (1) (B)).

21.2 U.S. Security Associates, Inc. has acted and refused to act on grounds generally applicable to class members, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to class members as a whole (Fed.R.Civ.P. 23 (b) (2)).

21.3 The questions of law and fact common to the members of the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy (Fed.R.Civ.P. 23 (b) (3)).

(A) Class members have little or no interest in individually controlling the prosecution of separate actions (Fed.R.Civ.P. 23 (b) (3) (A)).

(B) This action is manageable as a collective action for FLSA claims and as a class action for NJWPL claims because compared with any other method, such as individual interventions or the consolidation of individual actions, a class action is fairer and more efficient (Fed.R.Civ.P. 23 (b) (3) (D)).

COUNT ONE
(Violation of the FLSA)

22. Plaintiffs repeat and reallege the allegations contained in the preceding paragraphs of this Complaint as if set forth herein in their entirety.

23. Defendant failed to pay plaintiffs and other similarly situated employees overtime wages at a rate of one and one-half times the normal hourly pay rate for hours worked in excess of 40 hours per week, including, but not limited to, the time non-supervisory security guard employees spent arriving 15 minutes, or more, early for work and waiting for their shifts to begin.

24. Plaintiffs and their similarly situated co-workers were not executive, administrative, or professional employees within the meaning of the FLSA. Nor were plaintiffs and their similarly situated co-workers supervisors within the meaning of the FLSA.

25. By failing to pay the plaintiffs and their similarly situated co-workers such overtime pay, defendant has violated and continues to violate the FLSA, 29 U.S.C. § 201 et seq.

26. Further, defendant has failed to properly notify and advise employees of their rights under the FLSA and/or misrepresented the employees' rights under the FLSA and otherwise engaged in conduct that tolls the statutes of limitations for recovery of unpaid wages and damages under the FLSA.

27. As a result of defendant's actions, plaintiffs and their similarly situated co-workers have suffered damages in the form of lost wages and other benefits associated with their employment.

28. Because defendant's violations of the FLSA were not in "good faith," plaintiffs and their similarly situated co-workers are entitled to compensatory and liquidated damages equal to no less than double the amount of their unpaid and underpaid overtime wages.

29. Consents to join for each named plaintiff and other similarly situated persons will be filed with this Court.

COUNT TWO
(Violation of the NJWPL)

30. Plaintiffs repeat and reallege the allegations contained in the preceding paragraphs of this Complaint as if set forth herein in their entirety.

31. Defendant failed to pay plaintiffs and other similarly situated employees overtime wages at a rate of one and one-half times the normal hourly pay rate for hours worked in excess of 40 hours per week, including, but not limited to, the time non-supervisory security guard employees spent arriving 15 minutes, or more, early for work and waiting for their shifts to begin.

32. Plaintiffs bring this state law claim pursuant to N.J.S.A. 34:11- 56a1, et seq.

33. As a result of defendant's actions, plaintiffs and their similarly situated co-workers have suffered damages in the form of lost wages and other benefits associated with their employment.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs demand judgment against the defendant and in favor of plaintiffs and the class members for the following relief:

- a. That the Court assume jurisdiction of this action;
- b. That the Court enter an order that this lawsuit may be maintained as a class action, both under the FLSA and the NJWPL;
- c. That the Court award plaintiffs all damages to which they are entitled including but not limited to pre-judgment and post-judgment interest and all unpaid wages that should have been paid to plaintiffs but for the defendant's failure to pay proper overtime wages;
- d. Liquidated damages for defendant's willful violation for the FLSA;
- e. That the Court award punitive damages against the defendant;
- f. That the Court issue an injunction precluding future violations by the defendant;
- g. That the Court award plaintiffs' counsel reasonable attorneys' fees, paralegal fees, expert witness fees and all expenses associated with prosecuting this action;
- h. That the Court tax the costs of this action against the defendant; and
- i. That the Court grant such other and further relief to which the plaintiffs and class members may be entitled.

SCHALL & BARASCH, L.L.C.

By: s/Patricia A. Barasch, Esq.
Patricia A. Barasch, Esq.
Richard M. Schall, Esq.

Dated: June 1, 2005

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues as permitted by law.

Dated :June 1, 2005

SCHALL & BARASCH, L.L.C.

By: s/Patricia A. Barasch, Esq.
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