

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

CAMILLE JOHNSON,)
1433 E Willow Drive)
Olathe, KS 66062)

Individually and on Behalf of all Others)
Similarly Situated,)

Plaintiffs,)

v.)

MANUFACTURERS TECHNICAL)
INSTITUTES, INC.,)
A Missouri Corporation)
Registered Agent:)
Jeffrey C. Freeman)
502 West Markey Road)
Belton, MO 64012)

Defendant.)

JURY TRIAL DEMANDED

Case No. 4:11-CV-251

COLLECTIVE AND CLASS ACTION COMPLAINT

COMES NOW Plaintiff, Camille Johnson (“Plaintiff” or “Johnson”), on behalf of herself and all others similarly situated, by and through undersigned counsel, and hereby brings this Collective Action Complaint (“Complaint”) against Defendant Manufacturers Technical Institutes, Inc. (“Defendant” or “Manufacturers Technical Institutes”), alleging as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action against Defendant for unpaid regular and overtime compensation and related penalties and damages. Defendant’s practice and policy is to willfully fail and refuse to properly pay overtime compensation at the rate required by law due Plaintiff and all other similarly situated current and former employees working in Defendant’s online education division as Admissions Coordinators.

2. Defendant's policies and practices are in direct violation of the Fair Labor Standards Act, 29 U.S.C. § 201, et seq. ("FLSA") and the Missouri wage laws, Mo. Rev. Stat. § 290.500 *et seq.*, and Plaintiff seeks monetary damages, declaratory and injunctive relief, and other equitable and ancillary relief to seek redress for Defendant's willful and unlawful conduct.

3. At all relevant times hereto, Defendant has been an employer engaged in interstate commerce and/ or in the production of goods for commerce within the meaning of the FLSA, 29 U.S.C. § 203 and Missouri wage laws, Mo. Rev. Stat. § 290.500(4). At all relevant times hereto, Defendant has employed and/or continues to employ employees, including each of the putative members of the FLSA representative action. At all times relevant hereto, Defendant has had gross operating revenues in excess of Five Hundred Thousand Dollars (\$500,000.00).

PARTIES

4. Plaintiff Camille Johnson is a Kansas resident currently residing at 1433 E Willow Drive, Olathe, Kansas. Johnson was employed by Defendant as an Admissions Coordinator from October 2009 until May 2010 and assigned to work at Defendant's facility supporting its online education division at 101 E 1001st Terrace, Kansas City, Missouri. Pursuant to 29 U.S.C. § 216(b), Plaintiff Camille Johnson consents to be a party for the purpose of this FLSA representative action.

5. The putative class in this FLSA representative action consists of current and former employees of Defendant who were employed during the statutory period covered by this Complaint as Admissions Coordinators who were characterized as non-exempt and entitled to both regular hourly and overtime wages for all hours worked pursuant to the FLSA.

6. The putative class in the representative action pursuant to the Missouri wage laws, Mo. Rev. Stat. § 290.500 *et seq.*, consists of current and former employees of Defendant who

were employed during the statutory period covered by this Complaint as Admissions Coordinators, non-exempt positions entitled to both regular hourly and overtime wages for all hours worked pursuant to the Missouri wage laws, Mo. Rev. Stat. § 290.500 *et seq.*

7. Defendant Manufacturers Technical Institutes is a company organized under the laws of the State of Missouri maintaining a principal place of business for its online education division at 101 E 1001st Terrace, Kansas City, Missouri. Manufacturers Technical Institutes is a for-profit technical school.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over Defendant pursuant to 28 U.S.C. § 1331 and pursuant to 29 U.S.C. § 216(b), which provides in relevant part that suit under the FLSA “may be maintained against any employer . . . in any Federal or State Court of competent jurisdiction.”

9. This Court has supplemental jurisdiction for all claims asserted under the Missouri wage laws in that the claims under this law is part of the same case and controversy as the FLSA claims, the state and federal claims derive from a common nucleus of operative fact, the state claim would not substantially dominate over the FLSA claims, and exercising supplemental jurisdiction would be in the interests of judicial economy, convenience, fairness, and comity.

10. The United States District Court for the Western District of Missouri has personal jurisdiction over Defendant inasmuch as Defendant conducts business within this District.

11. Venue is properly laid in this Court pursuant to 28 U.S.C. § 1391(b), inasmuch as Defendant maintains offices, conducts business, and/or could be found in the Western District of Missouri, and the cause of action set forth herein has arisen and occurred in substantial part in

this District. Venue is also properly laid in this Court pursuant to 29 U.S.C. § 1132(e)(2) because Defendant has substantial business contacts within the State of Missouri.

FACTS PERTAINING TO PLAINTIFF AND OTHERS SIMILARLY SITUATED

12. Until May 2010 Plaintiff Camille Johnson was employed as an Admissions Coordinator in Defendant's online education division, an hourly, non-exempt position entitled to regular hourly and overtime wages for all hours worked pursuant to the FLSA.

13. Defendant's employees working as Admissions Coordinators in Defendant's online education division are responsible for advising prospective students regarding admissions, transferability of credit, educational opportunities, financial assistance, and Defendant's student-related policies and requirements.

14. Admissions Coordinators in Defendant's online education division are assigned minimum enrollment targets each month, and Admissions Coordinators work regular work schedules each week. Admissions Coordinators are encouraged, both explicitly and implicitly, to work at times outside their regular shift as necessary to meet their minimum enrollment targets.

15. Plaintiff and others working as Admissions Coordinators in Defendant's online education division also regularly worked hours in excess of forty (40) hours each week in order to complete generally the tasks assigned to them with the knowledge, permission, and mandate of their superiors.

16. Plaintiff and others working as Admissions Coordinators in Defendant's online education division were required to perform tasks necessary for their job functions away from the office and without compensation. These tasks including accepting phone calls from and placing calls to prospective students on their mobile or home phones and performing work from their personal computers. Plaintiffs were not permitted to report these hours for compensation.

17. All Admissions Coordinators in Defendant's online education division are similarly situated perform the same job functions.

18. All Admissions Coordinators in Defendant's online education division are also similarly situated in that they are subject to Defendant's same compensation policies and practices which require Admissions Coordinators to perform work while not compensating them for services performed.

19. Defendant also failed to maintain records accurately reflecting the number of all hours actually worked by Plaintiff and other Admissions Coordinators as required by the FLSA.

COUNT ONE – FAIR LABOR STANDARDS ACT

20. Plaintiff hereby incorporates by reference each preceding paragraph of this Complaint as though fully set forth herein.

21. Plaintiff brings this action on behalf of all persons who were, are, or will be employed by Defendant as Admissions Coordinators in Defendant's online education division within three years from the commencement of this action to recover unpaid regular and overtime compensation pursuant to the FLSA (hereafter "FLSA putative class members").

22. This Complaint is being brought and maintained as an "opt-in" collective action pursuant to 29 U.S.C. § 216(b) for all claims asserted by Plaintiff because her claims are similar to the claims of the FLSA putative class members.

23. The names and addresses of the members of the putative FLSA representative action are available from Defendant. To the extent required by law, notice will be provided to members of the putative FLSA representative action via First Class Mail and/or by the use of techniques and a form of notice similar to those customarily used in representative actions.

24. At all relevant times herein, Defendant has been an employer engaged in interstate commerce and/or the production of goods for commerce within the meaning of the FLSA, 29 U.S.C. §§ 206(a) and 207(a).

25. At all relevant times herein, Defendant employed and/or continues to employ Plaintiff and FLSA putative class members in non-exempt positions within the meaning of the FLSA.

26. The FLSA requires each covered employer to compensate all non-exempt employees for services performed and to compensate them at a rate of not less than one and one-half (1.5) times the regular rate of pay for work performed in excess of forty (40) hours in a workweek.

27. Defendant willfully and intentionally engaged in a persistent pattern and practice of violating provisions of the FLSA by failing and refusing to pay the correct amount of regular and overtime wages to Plaintiff Camille Johnson and each of the FLSA putative class members who were employed by Defendant as Admissions Coordinators in Defendant's online education division.

28. Defendant willfully and intentionally failed to maintain records accurately reflecting the number of all hours actually worked by Plaintiff and each of the FLSA putative class members who were employed by Defendant as Admissions Coordinators in Defendant's online education division as required by regulations promulgated pursuant to the FLSA at 29 C.F.R. §§ 516.1, et seq.

29. The foregoing conduct, as alleged, constitute willful violations within the meaning of the FLSA, 29 U.S.C. § 255(a).

30. As a direct and proximate cause of Defendant's actions, Plaintiff Camille Johnson and each of the FLSA putative class members suffered damages, including but not limited to their unpaid compensation, unpaid overtime compensation, an additional amount equal as liquidated damages, additional liquidated damages for unreasonable delayed payment of wages, reasonable attorneys' fees, and costs and disbursements of this action pursuant to 29 U.S.C. § 216(b).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself and each FLSA putative class member, prays for relief as follows:

- a. Designation of this action as a collective action on behalf of the proposed members of the FLSA representative action and prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to FLSA putative class members, apprising them of the pendency of this action and permitting them to assert timely FLSA claims in this action by filing individual Consents to Join pursuant to U.S.C. § 216(b);
- b. Designation of Camille Johnson as Representative Plaintiff of the putative FLSA representative action group consisting of Defendant's current and former Admissions Coordinators;
- c. Designation of LG Law LLC as the attorneys representing the putative FLSA representative action plaintiffs;
- d. A declaratory judgment that the practices complained of herein are unlawful under the FLSA, 29 U.S.C. § 201, et seq.;
- e. An injunction against Defendant and their officers, agents, successors, employees, representatives, along with any and all persons or entities acting in concert with

- Defendant, as provided by law, from engaging in each of the unlawful practices, policies, and patterns of conduct set forth herein;
- f. An award of damages for overtime compensation due for Plaintiff and the putative FLSA representative action plaintiffs, including liquidated damages, to be paid by Defendant;
 - g. Costs and expenses of this action incurred herein, including reasonable attorney's fees and expert fees;
 - h. Pre-judgment and post-judgment interest as allowed by law; and
 - i. Any and all such other and further legal and equitable relief as this Court deems necessary, just and proper.

COUNT TWO – MISSOURI WAGE LAWS

31. Plaintiff hereby incorporates by reference each preceding paragraph of this Complaint as though fully set forth herein.

32. Plaintiff Camille Johnson brings this Count as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure, on behalf of herself and the following class of persons (hereafter "Missouri Class Members"):

All current and former employees of Defendant who have worked at locations in Missouri at any time during the last two years as Admissions Coordinators in Defendant's online education division and who were subject to Defendant's unlawful compensation policies of failing to pay compensation for all hours worked, and overtime compensation for all hours worked in excess of forty per work week.

33. The Missouri state law claims, if certified for class wide treatment, may be pursued by all similarly situated persons who do not opt-out of the class.

34. Plaintiff, individually and on behalf of the above Missouri Class Members, brings a class action based on the Missouri wage laws, Mo. Rev. Stat. § 290.500 *et seq.*, in particular, §§ 290.505.1 and § 290.527.

35. Plaintiff and the Missouri Class Members are all similarly situated in that they are and were all subject to Defendant's policies of failing to pay Plaintiff and others working as Admissions Coordinators in Defendant's online education division regular and overtime compensation for all hours worked. Defendant's policies deny regular and overtime compensation and are in violation of the Missouri wage laws, in particular Mo. Rev. Stat. § 290.505.

36. Class certification of this Count for violations of Missouri wage laws is appropriate pursuant to Fed. R. Civ. P. 23(a) in that:

- a. The Missouri Class Members are so numerous that joinder of all members is impracticable. The exact number of class members is unknown to the Missouri Named Plaintiff at the present time but an estimate would place the total in excess of one hundred;
- b. There are questions of law and fact arising in this action which are common to the Plaintiffs and the Missouri Class Members, including:
 - (i) Whether Defendant's policies and practices described within this Complaint were illegal;
 - (ii) Whether Missouri Class Members are paid for all of the time and overtime they work;
 - (iii) Whether Defendant maintains accurate records of the time the Missouri Class Members work;

(iv) Whether Defendant's policies and practices regarding the recording of time is lawful; and

(v) Whether Defendant failed to pay appropriate overtime premiums to the Missouri Class Members in violation of the Missouri wage laws, Mo. Rev. Stat. §290.505.

37. Plaintiff's claims are typical of the claims of the Missouri Class Members. Plaintiff was paid under the same policies and procedures as all members of the class. Plaintiff and the Missouri Class Members class were victims of the same wrongful conduct engaged by Defendant in violation of the Missouri wage laws.

38. Plaintiff will fairly and adequately protect the interests of the Missouri Class Members.

39. Plaintiff has retained counsel who is competent and experienced in class action and complex litigation involving compensation claims.

40. Plaintiff has no interests which are adverse to or in conflict with other Missouri Class Members.

41. Class certification of the respective class is appropriate under Fed. R. Civ. P. 23(b)(3) because questions of law and fact common to class members predominate over any questions affecting only individual members and a class action is the superior procedural vehicle for the fair and efficient adjudication of the claims asserted herein given that: (a) there is minimal interest of members of this class in individually controlling their prosecution of claims under the Missouri wage laws; (b) it is desirable to concentrate all the litigation of these claims in this forum; and, (c) there are no unusual difficulties likely to be encountered in the management of this case as a class action.

42. In the absence of a class action, Defendant would be unjustly enriched because it would be able to retain the benefits and fruits of the wrongful violation of the Missouri wage laws.

43. The class action mechanism is superior to any alternatives that might exist for the fair and efficient adjudication of this cause of action. Proceeding as a class action would permit the large number of injured parties to prosecute their common claims in a single forum simultaneously, efficiently, and without unnecessary duplication of evidence, effort, and judicial resources. A class action is the only practical way to avoid the potentially inconsistent results that numerous individual trials are likely to generate. Moreover, class treatment is the only realistic means by which plaintiffs can effectively litigate against large, well-represented corporate defendants. Numerous repetitive individual actions would also place an inordinate burden on the courts as they are forced to take duplicative evidence and decide the same issues relating to Defendant's conduct on each of many separate occasions.

44. Defendant failed to pay Plaintiffs and the Missouri Class Members regular and overtime compensation as required by Missouri law.

45. Defendant's failure to pay the correct amount of regular and overtime compensation violates the Missouri wage law, Mo. Rev. Stat. §290.505.

46. Because Defendant failed to properly pay regular and overtime pay as required by law, Plaintiff and the Missouri Class Members are entitled under the Missouri wage laws to bring this civil action under Mo. Rev. Stat. § 290.527, are entitled to all overtime compensation due to them at a rate of one and one-half (1.5) times the regular rate of pay for all overtime hours worked in the past two years under Mo. Rev. Stat. § 290.505 and § 290.527, and under Mo. Rev.

Stat. § 290.527 to recover additional liquidated damages in the same amount, and to recover costs and reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Camille Johnson, on behalf of herself and the Missouri Class Members, prays for relief as follows:

- a. Designation of this action as a class action under Fed. R. Civ. P. 23 on behalf of the Missouri Class Members and issuance of notice pursuant to all Missouri Class Members, apprising them of the pendency of this action;
- b. Designation of Plaintiff Camille Johnson as Representative Plaintiff of the Missouri Class Members;
- c. Designation of LG Law LLC as the attorneys representing the Missouri Class Members;
- d. A declaratory judgment that the practices complained of herein are unlawful under the Missouri wage laws;
- e. An award of damages for overtime compensation due for the Plaintiff and the putative representative action plaintiffs, including liquidated damages allowed under Missouri law, to be paid by Defendant;
- f. Costs and expenses of this action incurred herein, including reasonable attorneys' fees and expert fees;
- g. Pre-Judgment and Post-Judgment interest, as provided by law; and
- h. Any and all such other and further legal and equitable relief as this Court deems necessary, just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all causes of action and claims with respect to which she and all members of the proposed representative action have a right to trial by jury.

DESIGNATED TRIAL LOCATION

Plaintiff, by and through his counsel of record, hereby designates the place of trial as **Kansas City, Missouri.**

Respectfully submitted,



/s/ Lewis M. Galloway

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