

1 UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF FLORIDA
3 ORLANDO DIVISION
4

5
6 **SERGIO SERRANO and JEFF**
7 **SANTOS on behalf of**
8 **themselves and as**
9 **representative of other class**
10 **members similarly situated,**

PUTATIVE COLLECTIVE CLASS
ACTION LAWSUIT

11
12
13 Plaintiffs,

14 v.

15
16 REED MOTORS, INC.,
17 d/b/a REED NISSAN ORLANDO,

18
19 Defendant.
20

21 _____ /
22
23

24 **COLLECTIVE ACTION COMPLAINT**

25 The above-named individual Lead Plaintiffs bring this collective action
26 lawsuit (individually and on behalf of others similarly situated) against Reed
27 Motors, Inc., d/b/a Reed Nissan Orlando ("Reed Nissan"), and alleges, upon
28 personal information and knowledge as to their own actions, their counsel's
29 investigation and upon information and good faith belief as to all other
30 matters, the following:

31 **I. NATURE OF THIS ACTION**

32 1. Lead Plaintiffs, individually and on behalf of others similarly
33 situated, file this lawsuit in response to Reed Nissan’s pattern and practice of
34 refusing to pay them wages lawfully earned in performing their job
35 responsibilities, which includes paying each of them at the federal minimum
36 wage standards, paying for overtime, failing to reimburse them for tools, and
37 other materials purchased by them to perform their job responsibilities for
38 their employer, among other violations of Fair Labor Standards Act, 29 U.S.C.
39 §§ 206 and 207 (the “*FLSA*”).

40 2. Lead Plaintiffs, like every individual that could opt to participate
41 in this collective action, was not paid all compensation due him, including
42 minimum wages, overtime wages, and other compensation lawfully due him,
43 for multiple weeks during the statutory period, which is a direct violation of
44 the FLSA.

45 **II. PARTIES TO THIS LAWSUIT**

46 1. Lead Plaintiffs are individuals who maintain their personal
47 residence in Orange County, Florida and worked for Reed Nissan in this
48 District.

49

50 2. Lead Plaintiffs and putative members of the FLSA collective
51 are/were individuals employed as automotive mechanics and service
52 technicians by Reed Nissan to perform traditional maintenance, repair, and
53 warranty services for Reed Nissan customers within the last four (4) years.

54 3. Lead Plaintiffs and each individual that would comprise the
55 collective action members are or were nonexempt employees that received an
56 IRS Form W2 for all wages earned as result of employment with Reed Nissan,
57 and all were paid on an hourly basis, and were or currently are subject to Reed
58 Nissan’s unlawful compensation program referred to generally as “piece-rate”
59 or “flat-rate” for services performed on behalf of Reed Nissan.

60 4. Lead Plaintiffs and all members of the collective action were
61 “employees” of Reed Nissan within the meaning of FLSA, 29 U.S.C. § 203(e)(1)
62 during the requisite statutory period.

63 5. Reed Nissan maintains its principal place of business and conducts
64 its business within the jurisdiction boundaries of this District.

65 6. Reed Nissan is an authorized dealership of Nissan North America,
66 Inc., the manufacturer, and distributor of all Nissan motor vehicles throughout
67 the United States of America.

68

69 7. Reed Nissan provides, in addition to selling motor vehicles
70 manufactured by Nissan North America, a variety of maintenance and repair
71 services to motor vehicles owned by its customers, including warranty repair
72 work under Nissan North America’s nationwide warranty repair program.

73 8. Reed Nissan was and continues to be an enterprise governed by
74 the FLSA because it is engaged in commerce or the production of goods for
75 commerce within the meaning of Section 3(s) of the FLSA because it has had
76 employees engaged in commerce or in the production of goods for commerce, or
77 employees handling, selling, or otherwise working on goods or materials that
78 have moved in or were produced for commerce by any person. 29 U.S.C. §
79 203(s). Reed Nissan’s annual gross volume of business exceeded \$500,000.00
80 (exclusive of taxes) each year during the requisite statutory period.

81 9. Reed Nissan was and continues to be an “employer” within the
82 meaning of FLSA 29 U.S.C. § 203(d) because it is a corporation acting directly
83 in the interest of its associated agents/business partners—in relation to the
84 employees at issue—the technicians, mechanics, and maintenance servicemen.

85 10. Reed Nissan is directly responsible and liable for the acts and
86 omissions alleged throughout this pleading and is liable to compensate Lead
87 Plaintiffs and all potential members of the collective action for financial harm
88 due to its failure to compensate them for work performed on behalf of their
89 employer.

90 **III. JURISDICTION AND VENUE**

91 11. This Court has original subject jurisdiction under the Fair Labor
92 Standards Act, 29 U.S.C. § 201, *et. seq.*; such jurisdiction lies under 28 U.S.C.
93 §§ 1331 and 1332.

94 12. Venue is proper in this District under the provisions of 28 U.S.C.
95 § 1391 because Reed Nissan maintains its principal place of business and
96 conducts its business in this District.

97 **IV. COLLECTIVE ACTION ALLEGATIONS**

98
99 13. Reed Nissan’s employee compensation program (described in more
100 detail later this this pleading) violates the Fair Labor Standards Act, 29 U.S.C.
101 §§ 206 and 207, for failure to pay minimum wages, overtime wages, wages for
102 for all hours worked, or any combination of the foregoing.

103 14. Pursuant to 29 U.S.C. §§ 206 and 207, Lead Plaintiffs and all
104 others similarly situated, seek to prosecute their FLSA claims as a collective
105 action on behalf of all mechanics, technicians, and/or maintenance personnel—
106 together with Lead Plaintiffs, to be collectively referred to as “the Collective
107 Members”—who are or were employed by Reed Nissan at any time from June
108 2018 to the entry of judgement in this case (the “Collective Period”).
109

110 15. A collective action is appropriate in this circumstance because the
111 Lead Plaintiffs and the Collective Members are similarly situated in that 1)
112 they were subjected to Reed Nissan’s unlawful compensation program and
113 policies that compensated them less than the federal minimum wage for all
114 hours worked; 2) they were victim of Reed Nissan’s failure to pay overtime
115 wages; 3) they were forced to purchase large dollar amounts of tools which
116 reduced their compensation below the requisite minimum wage; and 4) further
117 acts of unlawful conduct described later in this pleading consistent with
118 applicable law.

119 16. Lead Plaintiffs’ damages are substantially similar to other
120 individuals that could elected to part of the Collective Members because each
121 were 1) not paid wages at or above the federal minimum wage by Reed Nissan
122 for all hours worked; 2) were victims of Reed Nissan’s unlawful compensation
123 program; 3) were forced to purchase expensive tools without reimbursement
124 up to the point needed to satisfy the minimum wage requirement; 4) were not
125 paid overtime wages for any hour worked in in excess of forty hours per week;
126 plus 5) statutory liquidated damages as provided by federal law for Reed
127 Nissan’s failure to pay minimum wage compensation as required by the FLSA.

128 17. The collection of similarly situated individuals or potential
129 collective members (i.e., the “*Collective Members*”) sought to be certified under
130 29 U.S.C. § 216 is defined as:

131 All individuals that were employed by Reed Nissan during
132 the Collective Period who were or are automobile service
133 persons compensated under an unlawful compensation
134 program implemented by Reed Nissan and referred to as
135 “piece-rate” or “flat-rate”, in which they performed services
136 on behalf of Reed Nissan and were not compensated their A)
137 statutory minimum wage for all hours worked per week
138 during one (1) or more weeks and/or B) were not
139 compensated time-and-a-half of their regular hourly rate for
140 all hours worked in excess of forty (40) hours.

141
142 18. The precise size and identity of the entire Collective Members is
143 easily ascertainable from Reed Nissan’s business records, tax records, and/or
144 employee personnel records.

145 19. Reed Nissan compensated Lead Plaintiffs and the Collective
146 Members in the same manner and under the same unlawful employee
147 compensation program, and each has worked in Florida during the Collective
148 Period.

149 20. Lead Plaintiffs and the Collective Members are owed straight time
150 and overtime wages under the FLSA.

151 21. Lead Plaintiffs maintain the right to modify the Collective Member
152 definition, create additional subclasses or classes, if necessary, and to revise
153 these definitions to maintain cohesive classes which do not require individual
154 inquiry to determine liability.

155 **V. UNLAWFUL BUSINESS PRACTICES**

156 22. Reed Nissan has engaged in willful and systematic misconduct by
157 depriving Lead Plaintiffs and all Collective Members of wages they are
158 lawfully entitled to in violation of the FLSA, including its failure to properly
159 reimburse Collective Members for all business expenses including, without
160 limitation, the cost to procure and maintain tools, equipment, and supplies
161 necessary for the discharge of their duties, resulting in failure to pay minimum
162 wages and unpaid wages.

163 23. Reed Nissan willfully engages in wage compensation misconduct
164 that denies Lead Plaintiffs and Collective Members the right to be
165 compensated for all work hours performed and benefits provided on behalf of
166 Reed Nissan.

167 24. Reed Nissan is an employer as defined under 29. U.S.C. § 203(d),
168 that benefits financially and reputationally from the work performed by Lead
169 Plaintiffs and the Collective Members, such as the maintenance and repair on
170 automobiles.¹

171 25. Lead Plaintiffs and the Collective Members work under a payment
172 system referred to as “piece-rate” pay or “flat-rate” pay, where employees are

¹ Collective members perform a specialty job integral to Reed Nissan’s business given that they are responsible for servicing Nissan vehicles under manufacturer warranties.

173 paid a fixed rate for each unit produced or service performed (“*flagged hours*”),
174 regardless of the amount of time the employee spent working on the task.

175 26. All Nissan authorized dealerships are required to comply with this
176 payment system, which was established by Nissan North America, which is
177 why the impact of its application affects all members of this collective action in
178 the same manner.

179 27. Under this payment system, the rate of pay per service varies by
180 the task performed and whether the service is “warranty-paid” or “customer-
181 paid”. The rate of pay is defined directly by Nissan North America to each of
182 its dealerships in its Products Resource Manual published by Nissan North
183 America and updated from time to time as part of its nationwide authorized
184 dealership compliance programs.

185 28. Traditionally, this payment system was common with automotive
186 technicians and was initially created as an incentive for their employees to
187 work at a faster pace; in fact, it was quite lucrative for many technicians in
188 previous years before intentionally amending its policies in order to continue
189 compensating employees at a flat-rate or piece-rate system, while forcing them
190 to work many hours over forty hours per week, ultimately reducing the
191 compensation to its employees.

192

193 29. Reed Nissan’s misconduct and misuse of this payment system fails
194 to properly compensate employees for a substantial number of hours worked
195 in the day, including time working non-flagged hours for such tasks as
196 training, cleaning the workshop, or prepping tools.

197 30. Reed Nissan’s willful misuse of the “flat-rate pay” system
198 withholds wages owed to their technicians, thereby resulting in decreased
199 expenses and increased profits for Reed Nissan.

200 31. In comparison to other vehicle manufacturers and their respective
201 dealerships, Reed Nissan established additional policies, causing their
202 technicians to suffer a significant amount of unpaid wages over the past
203 several years.

204 32. For instance:

205 a. Lead Plaintiffs and the Collective Members, are
206 required to perform various unpaid “non-repair” tasks,
207 including, but not limited to cleaning, attending meetings
208 and/or on-site/virtual trainings, traveling to offsite locations
209 in connection with Reed Nissan’s business, reviewing service
210 orders, and completing invoices. These tasks comprise a
211 large portion of their “worktime”, for which the employees
212 are not paid. Lead Plaintiffs and Collective Members are not
213 compensated for the hours spent conducting “non-piece-rate”
214 or “non-flat-rate” tasks.

215 b. The total amount of hours spent “on the job” by
216 Lead Plaintiffs and Collective Members are not documented
217 as required and paystubs denote what purports to be
218 “flagged hours” only, with no supportive information.
219
220

221 c. Lead Plaintiffs and Collective Members are
222 required to purchase tools and equipment to fulfill their
223 duties as a Reed Nissan service technician. When they
224 purchase these tools and equipment, their weekly rate of pay
225 falls below the required statutory minimum wage to which
226 they are never recompensed.

227
228 d. When Lead Plaintiffs and Collective Members
229 purchase the tools to fulfill their duties for Reed Nissan, they
230 are conferring a benefit onto Reed Nissan to which Reed
231 Nissan accepts. Reed Nissan never pays the value of the
232 benefit back to the employees, therefore retaining an unjust
233 enrichment in the benefit conferred.

234
235 33. Reed Nissan has also established and employed an arbitrary
236 system where services paid by customers directly provides a significantly
237 higher flat-rate pay-out to the Reed Nissan employee conducting the work; on
238 the other end of the spectrum, that same work, but for a customer with a
239 vehicle under warranty (which consists of approximately 80% of Reed Nissan's
240 customer base/service-work as of recent years) pays a *substantially* lower flat-
241 rate pay-out to the employee than if it were to be paid directly by a customer.

242 34. There is no difference in the work being performed between
243 "customer-paid" and "warranty-paid" work, other than the rate being paid to
244 the employee.

245 a. For example, the flat-rate pay-out to a
246 technician for replacing a transmission in a Nissan Sentra
247 that is paid directly by the customer is eight (8) hours.

248
249 b. When the same transmission is brought in by a
250 customer
251

252 c. with the same vehicle, but under a warranty
253 (either manufacturer or an extended warranty), the
254 transmission replacement conducted by the technician will
255 now only pay four (4) hours, with no justification for the
256 significant discrepancy in pay.

257
258 d. This drastic change in the flat-rate paid to the
259 technician is arbitrary and capricious, as there is no
260 difference in the work performed or the time it takes to
261 replace a transmission (for example) in a warranty-paid
262 versus customer-paid vehicle.

263
264 35. “Warranty-paid” work provides a substantially lower payout to the
265 employees than “customer-paid” work because the warranty work constitutes
266 a great majority of the service requested at Reed Nissan.

267 36. The disparity between the amount of “warranty-paid” vs.
268 “customer-paid” work has resulted in reduced profit-margins for Reed Nissan.
269 To claw-back profits, Reed Nissan reduces the pay-out to its employees through
270 the unlawful method described herein.

271 37. Consequently, mechanics, technicians, and maintenance
272 personnel did not and are not receiving fair compensation for all hours worked
273 while providing valuable benefits and services to Reed Nissan, for which Reed
274 Nissan receives profits. These invaluable Reed Nissan employees have
275 outstanding unpaid wages² owed to them.

276
² “Unpaid wages” means the difference between the wages actually paid to an
employee and the wages required to be paid to the employee including all
compensation for services.

277 38. Reed Nissan's employee compensation program violates the Fair
278 Labor Standards Act, 29 U.S.C. §§ 206 and 207, for failure to pay minimum
279 and/or overtime wages for all hours worked, as will be described in Counts I
280 and II of this complaint.

281 39. Lead Plaintiffs and the Collective Members are routinely required
282 to purchase, and maintain their own tools, equipment, and supplies necessary
283 for the discharge of their duties for the direct benefit of Reed Nissan.

284 40. Reed Nissan has been unjustly enriched through their conduct by
285 failing to reimburse employees for expenses relating to these equipment
286 purchases resulting in profit and benefit for Reed Nissan to the detriment of
287 the employees/Class Members.

288 41. Reed Nissan's failure to reimburse Lead Plaintiffs and Collective
289 Members for out-of-pocket expenses resulted in a benefit to the employer, as it
290 decreased the employees' regular wages below the minimum wage resulting in
291 injury to the Lead Plaintiffs and Collective Member.

292 42. In other words, by requiring the Lead Plaintiffs and Collective
293 Members to purchase their own tools to complete their duties, the cost of such
294 tools purchased by the employee diminishes the overall compensation of the
295 employee resulting in lower than minimum wage compensation.

296 43. By requiring Lead Plaintiffs and the Collective Members to
297 purchase their own tools, Reed Nissan is effectively requiring employees to
298 kick-back their wages to the employer.

299 44. Reed Nissan's arbitrary decisions to deduct certain hours from
300 employees' wages is an incomprehensible violation of employment laws and
301 constitutes a kickback for the benefit of Reed Nissan.

302 45. As a result of Reed Nissan's misconduct and misuse of the flat rate
303 pay system including failure to adequately compensate employees for hours
304 worked and/or overtime hours, and kickbacks, employees are not compensated
305 in accordance with the requisite minimum wage.

306 46. Reed Nissan and its agents/representatives are aware of and
307 materially participated in the implementation of the unfair wage
308 compensation system.

309 47. Reed Nissan employs unlawful wage compensation systems to
310 capture more profits and combat shrinking profit margins by underpaying
311 their essential technicians, mechanics, and maintenance personnel and failing
312 to pay them the wages they are legally entitled to for the skilled labor they
313 perform.

314 48. This action represents a situation typical of class treatment.
315

316 49. Reed Nissan's failure to pay wages for all hours worked by all
317 mechanics, technicians, and maintenance personnel employed by Reed Nissan
318 is uniform throughout its entire business operations. These employees are also
319 similarly situated due to the application of "piece-rate" and or "flat-rate" pay.

320 50. Determining liability for violations of the Federal Fair Labor
321 Standards Act, Code of Federal Regulations, and other laws will ensure that
322 all mechanics, technicians, and maintenance personnel of Reed Nissan are
323 fairly and legally compensated under these laws then, now, and in the future.

324 **VI. BASIC CONDITIONS PRECEDENT ALLEGATIONS**

325 51. Lead Plaintiffs have engaged the law firm of éclat law, PA to serve as
326 its lead trial counsel and are obligated to compensate these law firms for services
327 rendered in connection with prosecuting the Collective Members rights as alleged
328 herein.

329 52. All conditions precedent to bring this action have taken place, are
330 futile, expired or were effectively waived.

331 **COUNT I**
332 **VIOLATION OF THE FLSA - MINIMUM WAGES**
333

334 53. Lead Plaintiffs reallege and incorporate by reference the
335 allegations contained in paragraphs 1 through 52 above as if fully set forth
336 herein.

337 54. Lead Plaintiffs bring this cause of action to recover unpaid
338 minimum wages owed to Lead Plaintiffs and the Collective Members pursuant
339 to the Fair Labor Standards Act, 29 U.S.C. § 201, *et. seq.*

340 55. This includes failure to pay minimum wage for all hours worked
341 by the Lead Plaintiffs and the Collective Members and includes reductions in
342 the employees' paychecks for the benefit of the employer in which they required
343 employees to purchase tools to perform their work without reimbursement or
344 compensation up to the statutory minimum wage.

345 56. Lead Plaintiffs and Collective Members were or continue to be
346 automobile service or maintenance employees (or former-employees) of Reed
347 Nissan—including but not limited to mechanics/technicians and maintenance
348 servicemen as described in more detail earlier in this pleading.

349 57. Lead Plaintiffs and the Collective Members consent to sue in this
350 action pursuant to 29 U.S.C. § 216(b); additional potential opt-in Plaintiffss
351 may execute and file forms consenting to "opt in" and joining as Plaintiffss in
352 this collective action.

353 58. Lead Plaintiffs and the Collective Members were hired by Reed
354 Nissan in Florida to perform duties as a technician on behalf of Reed Nissan
355 and for Reed Nissan's profit during the Collective Period.

356 59. Lead Plaintiffs and the Collective Members were employed by
357 Reed Nissan.

358 60. Lead Plaintiffs and the Collective Members were required by Reed
359 Nissan to procure and maintain tools, equipment, and supplies necessary for
360 the discharge of their duties, which reduced the employees' weekly wage to an
361 amount that was below the requisite minimum wage. These tool purchases
362 further reduced the employees' weekly wage to an amount that was below the
363 statutory minimum wage.

364 61. By failing to pay minimum wages, Reed Nissan has violated, and
365 continues to violate Sections 206 and 215 of the FLSA.

366 62. The conduct described throughout this Complaint constitutes a
367 willful violation of the FLSA.

368 63. Reed Nissan knew that it was required to pay its employees at
369 least the requisite minimum wage for all hours worked.

370 64. Instead of lawfully paying its employees, Reed Nissan established
371 and maintained systems, policies, and procedures that were intentionally
372 designed to avoid paying employees their earned wages as detailed in the
373 paragraphs above.

374 65. Reed Nissan has engaged in a widespread systematic pattern,
375 policy, and practice of violating the FLSA, as detailed throughout this
376 Complaint. Application of these practices does/did not depend on the personal
377 circumstances of the Lead Plaintiffs or any of the Collective Members. Rather,

378 the same practices which result in the non-payment of minimum wages to Lead
379 Plaintiffs and the Collective Members apply to all Collective Members.

380 66. Lead Plaintiffs and the Collective Members are/were entitled to be
381 paid at least minimum wage for all hours worked during the workweek
382 pursuant to FLSA 29 U.S.C. § 206.

383 67. Further, when tool and equipment purchases decrease the
384 employees' weekly paycheck below the statutory minimum wage, Lead
385 Plaintiffs and the Collective Members are entitled to reimbursement up to and
386 including the statutory minimum wage.

387 68. Reed Nissan violated FLSA 29 U.S.C. § 206 by failing to pay
388 minimum wages, as described above, and caused Lead Plaintiffs and the
389 Collective Members to suffer lost wages and interest thereon.

390 69. Lead Plaintiffs and the Collective Members have been required to
391 work eight (8) hours per day, and beyond, without receiving the full
392 compensation for the hours worked.

393 70. Due to Reed Nissan's misconduct and misuse of the employee
394 compensation system, Lead Plaintiffs and the Collective Members did not earn
395 wages at the minimum wage rate for all their hours worked during one or more
396 work weeks.

397

398 71. Lead Plaintiffs and the Collective Members were only
399 compensated for “flagged hours”, which sufficiently reduced the compensable
400 hours included in their pay-out, effectively lowering their rate of pay in a
401 manner which falls below the federal minimum wage rate.

402 72. By way of example, on April 17, 2019, Lead Plaintiffs received a
403 paycheck stating that he worked 13 hours and was paid \$416.00 (gross), but
404 worked at least 60 hours, which is \$.32 per hour below the federal minimum
405 wage rate of \$7.25 per hour for 2019. For this one week, he is owed a total of
406 \$19.20 in unpaid federal minimum wages.

407 73. Reed Nissan knowingly, willfully, or with reckless disregard
408 carried out its illegal pattern or practice of failing to pay proper minimum
409 wages as compensation with respect to Lead Plaintiffs and the Collective
410 Members.

411 74. Reed Nissan knew that Lead Plaintiffs and the Collective
412 Members were owed compensation and that Reed Nissan was required to pay
413 such compensation. However, Reed Nissan failed to do so.

414 75. As a result of Reed Nissan’s intentional, willful, and unlawful acts
415 in refusing to pay Lead Plaintiffs and the Collective Members, and those
416 similarly situated to them, minimum wage rates per hour worked per
417 workweek in one or more workweeks, Lead Plaintiffs and the Collective

418 Members have suffered damages, and incurred reasonable attorneys' fees and
419 costs as provided in 29 U.S.C. § 216.

420 76. As a result of Reed Nissan's willful violation of FLSA § 206, Lead
421 Plaintiffs and the Collective Members are entitled to recover the full amount
422 of any unpaid back wages unlawfully withheld, plus the same amount as
423 liquidated damages as per 29 U.S.C. § 216.

424 77. Lead Plaintiffs and the Collective Members are entitled to recover
425 from Reed Nissan their unpaid minimum wages, damages for unreasonably
426 delayed payment of wages, liquidated damages or pre-judgment interests,
427 reasonable attorneys' fees, and costs and disbursements of the action pursuant
428 to 29 U.S.C. §§ 206 and 216.

429 78. Because Reed Nissan's violations of the FLSA have been willful, a
430 three-year statute of limitations applies pursuant to 29 U.S.C. § 255.

431 79. Collective Members request designation of this action as a
432 collective action and prompt issuance of notice pursuant to 29 U.S.C. § 216(b)
433 to all similarly situated members of an FLSA Opt-In Collective, apprising them
434 of the pendency of this action, permitting them to assert timely FLSA claims
435 in this action by filing individual Consents to Join, and appointing Plaintiffs
436 and their counsel to represent the Collective Action Members.

437

COUNT II
NISSAN'S VIOLATION OF THE FLSA FOR FAILURE
TO PAY OVERTIME WAGES³

438
439
440
441
442 80. Lead Plaintiffs reallege and incorporate by reference the
443 allegations contained in paragraphs 1 through 52 above as if fully set forth
444 herein.

445 81. Lead Plaintiffs bring this cause of action to recover unpaid
446 overtime wages owed to them pursuant to the Fair Labor Standards Act, 29
447 U.S.C. § 201, *et seq.*

448 82. Lead Plaintiffs and Collective Members are automobile service or
449 maintenance employees (or former-employees) of Reed Nissan—including but
450 not limited to mechanics/technicians and maintenance servicemen as
451 described and defined earlier in this pleading.

452 83. All other collective action Plaintiffs were, always relevant to this
453 action, adults residing in Florida. Lead Plaintiffs and the Collective Members
454 consent to sue in this action pursuant to 29 U.S.C. § 216(b); additional potential
455 opt-in Plaintiffs may execute and file forms consenting to “opt in” and joining
456 as Plaintiffs in this collective action.

457 84. Lead Plaintiffs and the Collective Members were hired by Reed
458 Nissan dealerships in Florida to perform duties as a technician on behalf of
459 Reed Nissan and for Reed Nissan's profit during the Collective Period.

460 85. Lead Plaintiffs and the Collective Members were employed by
461 Reed Nissan.

462 86. By failing to pay overtime wages, Reed Nissan has violated and
463 continues to violate the FLSA sections 207 and 215.

464 87. The conduct described throughout this Complaint and above
465 constitutes a willful violation of the FLSA.

466 88. Reed Nissan knew that it was required to pay its employees the
467 requisite overtime for all overtime hours worked.

468 89. Instead of lawfully paying its employees, Reed Nissan established
469 and maintained systems, policies, and procedures that were intentionally
470 designed to avoid paying employees their earned wages as detailed in the
471 paragraphs above.

472 90. Reed Nissan has engaged in a widespread systematic pattern,
473 policy, and practice of violating the FLSA, as detailed throughout this
474 Complaint.

475 91. Application of these practices does/did not depend on the personal
476 circumstances of the Lead Plaintiffs and the Collective Members. Rather, the

477 same practices which result in the non-payment of overtime wages to Lead
478 Plaintiffs and the Collective Members apply to all Collective Action Members.

479 92. Lead Plaintiffs and the Collective Members are entitled to be paid
480 overtime at a rate not less than one and one-half times their regular rate for
481 all hours worked in excess of forty hours per week pursuant to FLSA 29 U.S.C.
482 § 207.

483 93. Reed Nissan violated the FLSA, 29 U.S.C. § 207, by failing to pay
484 Lead Plaintiffs and the Collective Members overtime wages at a rate of time
485 and a half of their regular pay during the weeks that they worked more than
486 forty (40) hours, as described in the paragraphs above, and caused Lead
487 Plaintiffs and the Collective Members to suffer lost wages and interest thereon.

488 94. Lead Plaintiffs and the Collective Members were only
489 compensated for “flagged hours”, which sufficiently reduced the compensable
490 hours included in their pay-out. Furthermore, “flagged hours” were the only
491 hours that were counted for purposes of determining whether Collective
492 Members were entitled to overtime, rather than the actual hours worked by
493 the Collective Members.

494 95. Therefore, Lead Plaintiffs and the Collective Members frequently
495 worked over forty hours per week but did not receive the required overtime for
496 every hour worked more than forty (40) hours per week, since flagged hours
497 were the only hours that were counted for purposes of overtime.

498 96. By way of example, on January 31, 2020, Lead Plaintiffs received
499 a paycheck stating that he worked 48 hours and was paid \$1,536.00 (gross). He
500 was paid at his straight rate for each of these hours. Under 29 U.S.C. § 207,
501 Lead Plaintiffs should have been paid at a rate not less than one and one-half
502 times the regular rate at which he is employed for every hour in excess of forty
503 (40) hours, which he was not. For this one week, he is owed a total of \$384 in
504 unpaid overtime wages.

505 97. Moreover, despite working more than forty (40) hours per week,
506 Reed Nissan failed to pay Collective Members overtime compensation at the
507 appropriate rate.

508 98. Reed Nissan knowingly, willfully, or with reckless disregard
509 carried out its illegal pattern or practice of failing to pay Collective Members
510 the required overtime wages.

511 99. Reed Nissan knew that Lead Plaintiffs and the Collective
512 Members were owed compensation and that Reed Nissan was required to pay
513 such compensation. However, Reed Nissan failed to do so.

514 100. As a result of Reed Nissan's intentional, willful, and unlawful acts
515 in refusing to pay Lead Plaintiffs and the Collective Members, and those
516 similarly situated to them, overtime wage rates per hour worked per workweek
517 in one or more workweeks, Lead Plaintiffs and the Collective Members, and

518 those similarly situated to them, have suffered damages, and incurred
519 reasonable attorneys' fees and costs as provided in 29 U.S.C. § 216.

520 101. As a result of Reed Nissan's willful violation of FLSA § 207, Lead
521 Plaintiffs and the Collective Members are entitled to recover the full amount
522 of any unpaid back wages unlawfully withheld, plus the same amount as
523 liquidated damages or pre-judgement interest as per 29 U.S.C. § 216. They are
524 further entitled to reasonable attorneys' fees, costs, and disbursements.

525 102. Because Reed Nissan's violations of the FLSA have been willful, a
526 three-year statute of limitations applies pursuant to 29 U.S.C. § 255.

527 103. Lead Plaintiffs and the Collective Members request designation of
528 this action as a collective action and prompt issuance of notice pursuant to 29
529 U.S.C. § 216(b) to all similarly situated members of an FLSA Opt-In Class,
530 apprising them of the pendency of this action, permitting them to assert timely
531 FLSA claims in this action by filing individual Consents to Join, and
532 appointing Plaintiffs and their counsel to represent the Collective Action
533 Members.

534 PRAYER FOR RELIEF

535 WHEREFORE, Lead Plaintiffs and the Collective Members respectfully
536 request that judgment be entered in their favor, against Reed Nissan, and:

537 a. Certification and acknowledgement of the Collective Action
538 and appointing the Lead Plaintiffs and trial counsel the opportunity to
539 represent the Collective Members.

540 b. Awarding Lead Plaintiffs and the Collective Members
541 his/their unpaid wages in the amount due to him/them for Lead Plaintiffs
542 and the Collective Members, time worked in each work week at
543 minimum wage, any owed overtime wages, and any other relief provided
544 for under law.

545 c. Awarding Lead Plaintiffs and the Collective Members
546 liquidated damages as permitted by law.

547 d. Awarding Lead Plaintiffs and the Collective Members
548 reasonable attorneys' fees and costs and expenses of the litigation
549 pursuant to the FLSA.

550 e. Awarding Lead Plaintiffs and the Collective Members
551 punitive damages and/or pre-judgment interest as permitted by law.

552 f. Granting Lead Plaintiffs and the Collective Members an
553 Order, on an expedited basis, allowing them to send notice of this action
554 as a collective action pursuant to 29 U.S.C. § 216(b) to those similarly
555 situated Collective Action Members; and

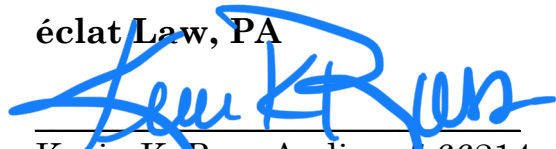
556 g. Granting any other further relief, the Court deems just and
557 proper.

558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574

JURY TRIAL DEMANDED

Class Members respectfully demand a trial by jury on all issues so triable.

éclat Law, PA



Kevin K. Ross-Andino, # 66214
kevin.ross@eclatlaw.com
307 Cranes Roost Boulevard # 2010
Altamonte Springs, Florida 32701
Main Line: (407) 636-7004

*Lead Trial Counsel to the
Plaintiffs and each Class Member*