

6. Defendant Allstate Insurance Company is a corporation that regularly conducts business in the State of Missouri.

COUNT I – UNPAID OVERTIME

7. Plaintiff realleges and incorporates by reference all facts contained in the previous paragraphs of his Petition as though fully stated herein.

8. This count is brought pursuant to the Missouri Minimum Wage Law, Mo. Rev. Stat. § 290.500 *et seq.*

9. Plaintiff was an employee of the Defendant at all times referenced herein.

10. Plaintiff worked for the defendant as a Senior Claims Adjuster.

11. The Plaintiff is an employee of the Defendant as defined by Mo. Rev. Stat. § 290.500(3).

12. The Defendant is an “employer” as defined by Mo. Rev. Stat. § 290.500(4).

13. Plaintiff regularly worked in excess of 40 hours per week.

14. Section 290.505(1) R.S.Mo. states “No employer shall employ any of his employees for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.”

15. Defendant failed to pay Plaintiff any additional amounts for hours worked in excess of 40 hours per week.

16. Defendant failed to pay Plaintiff wages at one and one-half times his regular rate.

17. Plaintiff did not and do not qualify as exempt employee as defined by applicable State and Federal statutes.

18. Defendant's failure to pay overtime compensation, as described above, in violation of Missouri's Minimum Wage Law, has been willful and was not the result of a good faith contest or dispute.

19. At all relevant times, Plaintiff has been entitled to the rights, protections and benefits provided under the Missouri Minimum Wage Law, Mo. Rev. Stat. § 290.500 *et seq.*

20. Defendant has willfully and intentionally engaged in a persistent pattern and practice of violating the Minimum Wage Law by misclassifying its employees as "exempt" and/or simply failing and refusing to pay any overtime compensation or the improper amount of overtime wages to such current and former employees.

21. Plaintiff is a victim of a uniform and company-wide policy of Defendant of not paying overtime compensation.

22. The Defendant' conduct was outrageous because of the Defendant' evil motive or reckless indifference to the Plaintiffs' rights.

WHEREFORE, Plaintiffs pray for a judgment against Defendant Allstate Insurance Company, for an amount to be determined at trial, in excess of \$25,000.00, for damages sustained and for liquidated damages pursuant to Section 290.527 R.S.Mo., for punitive damages, for his costs and attorney's fees, for interest and for such other and further relief as the court deems just and proper.

COUNT II – VIOLATIONS OF THE MISSOURI HUMAN RIGHTS ACT

23. Plaintiff realleges and incorporates by reference all facts contained in the previous paragraphs of his Petition as though fully stated herein.

24. This count is authorized and instituted under the Missouri Human Rights Act, Section 213.010 R.S.Mo. *et seq.* (MHRA)

25. At all times relevant herein plaintiff was a person between the ages of 40 and 70.

26. Defendant Allstate is an employer as defined by Chapter 213 R.S.Mo.

27. Defendant Allstate terminated Plaintiff on or about January 4, 2012.

28. Defendant terminated seven employees who worked in its Missouri Auto Unit, including the plaintiff, on or about January 4, 2012.

29. Each of said employees was between the ages of 40 and 70.

30. Upon reason and belief, Plaintiff was replaced by a younger worker.

31. Defendant Allstate discriminated against Plaintiff Murrell with respect to his compensation, terms, conditions, or privileges of employment, because of Murrell's age.

32. Defendant Allstate limited, segregated, or classified plaintiff Murrell in a way which would deprive or tend to deprive him of employment opportunities or otherwise adversely affected his status as an employee, because of his age.

33. Defendants Allstate discriminated against Murrell on the basis of his age as it relates to employment.

34. Murrell was denied career advancement opportunities by Allstate because of his age.

35. Murrell has suffered financial loss, decreased business opportunities, emotional pain, suffering, inconvenience, loss of enjoyment of life as a result of the actions of the Defendant.

36. The Defendant's conduct was outrageous because of the defendants' evil motive or reckless indifference to the Plaintiffs' rights.

WHEREFORE, the Plaintiff Wayne Murrell prays this court after a trial by jury, for which a jury is hereby demanded, to find that the defendant Allstate Insurance Company has violated the rights of the Plaintiff as set forth above:

- a. That a Judgment be entered ordering defendant to make plaintiff whole for the loss of income he has suffered as a result of the unlawful acts of harassment, discrimination, and retaliation, including back pay from the time of the unlawful discrimination with interest thereon and fringe benefits, front pay, compensatory damages, damages for past and future mental anguish, inconvenience, loss quality of life, and pain and suffering, punitive damages in the maximum amount allowed by law, and other affirmative relief necessary to eradicate the effects of defendants' unlawful employment practices, in an amount to be determined at trial, in excessive of \$25,000.00;
- b. That the court enter a permanent injunction enjoining defendant (as well as their officers, agents, and employees) from the violative conduct described herein;
- c. Allow plaintiff the costs of this action, including reasonable attorney fees and expenses incurred;
- d. Grant such additional and affirmative relief as the Court may deem just and proper.

DEMAND FOR A JURY TRIAL

Plaintiff, through counsel, respectfully requests a trial by jury on all issues.

Respectfully submitted:

KASPER LAW FIRM, LLC

By: /s/ Kevin J. Kasper

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CERTIFICATE OF TRUE COPY

I, Judy Zerr, Clerk of Circuit Court, within and for the county of St. Charles. State of Missouri, do certify that the foregoing is a true copy of an original document remaining on file and recorded in my office.

Witness my hand and SEAL of said Court this 20 day of Sept. 2012.

Judy Zerr, Circuit Clerk BY: Dawn M. Ziles
Deputy Clerk