

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**LOUIS P. CANNON
3712 Seventh Street
North Beach MD 20714**

**STEPHEN R. WATKINS
8610 Portsmouth Drive
Laurel MD 20708**

**ERIC WESTBROOK GAINEY
15320 Jennings Lane
Bowie MD 20721**

**GERALD G. NEILL
29350 Rolling Acres Lane
Mechanicsville MD 20659**

**SHEILA M. FORD-HAYNES
13401 Marburg Lane
Upper Marlboro MD 20772**

**HARRY LOUIS WEEKS, JR.
4331 Castle Tower Court
White Plains MD 20695**

**Plaintiffs and
Class Representatives**

v.

**DISTRICT OF COLUMBIA
Serve: Mayor Vincent C. Gray
John A. Wilson Building
1350 Pennsylvania Avenue NW
Washington DC 20004**

and

**Office of the Attorney General
Claims Unit, 6th Floor South
441 4th Street NW
Washington DC 20001**

Defendant

**Case Number
1:12-cv-00133**

Judge Ellen S. Huvelle

FIRST AMENDED COMPLAINT

The Plaintiffs Louis P. Cannon, Stephen R. Watkins, Eric Westbrook Gainey, Gerald G. Neill, Sheila M. Ford-Haynes, and Harry Louis Weeks, Jr., on behalf of themselves and all others similarly situated, hereby make this First Amended Complaint for monetary damages, as well as declaratory and declaratory relief.

PARTIES

1. The Plaintiffs and members of the proposed Plaintiff Class are all natural persons who have retired from the District of Columbia government and who have been subsequently reemployed by the District of Columbia. The identities and contact information of all other members of the proposed Plaintiff Class are contained within the Defendant's employment records.

2. Each of the named Plaintiffs is a citizen and resident of the State of Maryland.

3. The Defendant is a municipal corporation capable of being sued. *See* D.C. CODE § 1-207.17(a).

JURISDICTION AND VENUE

4. Each of the events complained of herein occurred within the District of Columbia.

5. Each of the Plaintiffs is a re-employed District of Columbia retiree entitled to retirement benefits made by the federal government under D.C. Code § 1-803.01(a) and other applicable law.

6. This civil action is brought in part to enforce or clarify rights to such benefits, and to discern the applicability of other laws to persons entitled to such benefits.

7. The United States District Court for the District of Columbia shall have exclusive jurisdiction and venue, regardless of the amount in controversy, of: (1) Civil actions brought by participants or beneficiaries pursuant to this chapter, and (2) Any other action otherwise arising (in whole or part) under this chapter or the contract. D.C. CODE § 1-815.02(a).

8. No injunctive relief is sought by the Plaintiffs against the Secretary of the Treasury or the Pension Fund Trustee. D.C. CODE § 1-815.02(d).

9. The Plaintiffs offer additional causes of action arising under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, including prayers for injunctive relief.

10. The United States District Courts have jurisdiction to restrain the withholding of payment of minimum wages found to be due under the Act. 29 U.S.C. § 217.

11. The Plaintiffs offer additional causes of action arising under 42 U.S.C. § 1983 for being subjected to a deprivation of their rights, privileges, and/or immunities secured by the Constitution and applicable law, by persons acting under color of the authority of the government of the District of Columbia.

12. The Plaintiffs offer an additional cause of action for the Defendant's violation of the District of Columbia Self-Government and Governmental Reorganization Act, PUB. L. No. 93-198, 87 STAT. 774 (1973) (codified as amended at D.C. CODE § 1-201.01 *et seq.*).

13. Under 28 U.S.C. § 1331, the United States District Court shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States, including 42 U.S.C. § 1983 and the District of Columbia Self-Government and Governmental Reorganization Act of 1973.

14. The Plaintiffs offer additional causes of action involving common law claims, including breach of contract, unjust enrichment, promissory estoppel, intentional or negligent misrepresentation, and detrimental reliance.

15. Under 28 U.S.C. § 1367, the United States District Court shall have shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

16. The Plaintiffs' common law claims are so related to the Federal law claims that they form part of the same case or controversy.

17. The Plaintiffs assert that certain of these common law claims are necessarily "federal" common law claims required to fill minor gaps in existing federal law.

18. "The inevitable incompleteness presented by all legislation means that interstitial federal lawmaking is a basic responsibility of the federal courts." *United States v. Little Lake Misere Land Co., Inc.*, 412 U.S. 580, 593 (1973). The United States District Court therefore has 28 U.S.C. § 1331 federal question jurisdiction for such federal common law questions herein.

19. The Plaintiffs ask this Court to declare their rights and other legal relations.

20. Under the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, the United States District Court may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is, or could be, sought.

21. In accordance with D.C. Code § 12-309, by service of this Complaint, the Plaintiffs' attorney has given notice in writing to the Mayor of the District of Columbia of the approximate time, place¹, cause, and circumstances of the injuries sustained by the Plaintiffs within six months after such injuries were sustained. However, the Plaintiffs make no waiver of defenses against these notice requirements for any claim brought forth in a federal venue and for any claim arising under federal law. The Plaintiffs further assert the Defendant's good and sufficient actual and/or constructive prior notice of all claims.

CLASS ACTION ALLEGATIONS

22. The proposed Plaintiff Class is a class of persons so numerous that the joinder of all members is impracticable. FED. R. CIV. P. 23(a). The proposed Plaintiff Class consists of all District of Columbia retired employees who receive federal annuity retirement benefits, who were reemployed after retirement by the District of Columbia after December 7, 2004, and who are, have been or will be subject to a reduction in pay in offset of retirement benefits in violation of D.C. Code § 1-611.03(b) or by purported operation of D.C. Code § 5-723(e).

¹ Insofar as a "place" possibly could be discerned with specificity regarding computerized deductions by unknown persons of an improper offset to salary payments made by electronic transfer.

23. The District of Columbia has identified 28 persons who are presently subject to the offset. There are believed to be potentially several hundred additional individual persons in the proposed Plaintiff class.

24. The Class Representatives are presently the subject to a reduction in pay in offset of retirement benefits in violation of D.C. Code § 1-611.03(b). Their interests are sufficiently similar to all other members of the proposed Plaintiff Class that they will fairly and adequately protect the interests of the other members. FED. R. CIV. P. 23(a).

25. As detailed below, the Defendant has acted, or will act, on grounds generally applicable to the proposed Plaintiff Class. FED. R. CIV. P. 23(b)(2).

26. The causes of action involve questions of law and fact common to all members of the class. Questions regarding the rights of all 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).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

27. The grievance system described in D.C. Code § 1-603.1 *et seq.* is inapplicable to the Plaintiffs and the members of the proposed Plaintiff Class, employees who pre-date the Comprehensive Merit Personnel Act. *See, e.g.*, D.C. CODE § 1-207.13(d).

28. The deduction of all or a majority of the pay of the Plaintiffs and the members of the proposed Plaintiff Class is not a matter falling within the definition of

D.C. Code § 1-603.01 and amounts to an “adverse action” or a classification matter beyond the scope of the section.

29. The Plaintiffs assert that the exhaustion of any administrative remedy which may be available to them is futile or inadequate as a legal or practical matter.

30. Where as herein the Plaintiffs challenge the enforceability of a statute, rather than the method of enforcement, an administrative remedy is inappropriate. No administrative program or mistake is at issue, and an administrative solution cannot resolve the complaint.

RELEVANT FACTS

31. The status of employees of the District of Columbia government has changed over the years as Congress has changed the nature of the local government. *See generally, Banner v. United States*, 303 F. Supp. 2d 1, 4-5 (D.D.C. 2004). At least prior to the establishment of the Mayor-Commissioner form of government under Reorganization Plan No. 3 of 1967, *see* 32 F.R. 11669, 81 Stat. 948, Sec. 301, some employees of the District government were treated as federal officers for certain purposes. *Lucas v. United States*, 268 F.3d 1089, 1091 (D.C. Cir. 2001) (citing *Reid v. Covert*, 351 U.S. 487, 489-90 (1956), *rev'd on other grounds* 354 U.S. 1 (1957); *Zinkhan v. District of Columbia*, 271 F. 542, 544-45 (D.C. Cir. 1921)).

32. The District of Columbia Home Rule Act provided that the Mayor of the District of Columbia would administer the personnel functions for District of Columbia government departments and agencies, and that personnel legislation enacted by Congress applicable to District of Columbia government employees would continue in

force only until the Council of the District of Columbia enacted a District government merit system. D.C. CODE § 1-204.22(3).

33. On October 31, 1978, the D.C. Council adopted the D.C. Comprehensive Merit Personnel Act, codified at D.C. Code § 1-601 *et seq.*, which became effective on March 3, 1979. *See Am. Fed'n of Gov't Employees v. Barry*, 459 A.2d 1045, 1048-49 (D.C. 1983).

34. In order to ensure continuity in retirement benefits, the Merit Personnel Act provided that such employees first employed before October 1, 1987, would continue to participate in existing federally funded retirement programs, *see* D.C. Code §§ 1-626.02; 1-801.01(b)(2) and (3); 1-803.01(a); for employees hired on or after that date, District of Columbia retirement benefits would apply. *See id.* at §§ 1-626.03; 1-801.01(b)(4). *See also* Balanced Budget Act of 1997, PUB. L. 105-33, Sec. 11042.

35. Each of the named Plaintiffs herein, and the members of the proposed Plaintiff class, was first employed by the District of Columbia government prior to October 1, 1987.

36. Each of the named Plaintiffs herein, and the members of the proposed Plaintiff class, retired from the District of Columbia government and receive federal annuity retirement benefits for their creditable service on or prior to June 30, 1997. *See, e.g.,* District of Columbia Retirement Protection Improvement Act of 2004, PUB. L. 108-489, 118 STAT. 3966 (establishment of District of Columbia federal pension fund for payment of federal benefit payments to District of Columbia teachers, police officers, and fire fighters). *See also* 31 CFR § 29.101 *et seq.*

37. Each of the named Plaintiffs herein, and the members of the proposed Plaintiff class, was subsequent to their retirement and after December 7, 2004, rehired by the District of Columbia.

38. Each of the named Plaintiffs herein, and the members of the proposed Plaintiff class, identified themselves to the District of Columbia as retired employees receiving federal annuity retirement benefits at the time of their applications for re-employment.

39. Prior to 2004, District of Columbia law provided that “the salary of any annuitant who first becomes entitled to an annuity under this subchapter, after November 17, 1979, and who is subsequently employed by the government of the District of Columbia shall be reduced by such amount as is necessary to provide that the sum of such annuitant’s annuity under this subchapter and compensation for such employment is equal to the salary otherwise payable for the position held by such annuitant.” D.C. CODE § 5-723(e).

40. On August 2, 2004, the District of Columbia City Council enacted D.C. Act 15-489, eliminating the reduction in pay of a District of Columbia government retiree identified in 5 U.S.C. § 8331 and is subsequently rehired by the District of Columbia after December 7, 2004. D.C. CODE § 1-611.03(b), 51 D.C. REG. 8779. This law remains in effect today.

41. 5 U.S.C. § 8331 defines employees to include “an individual first employed by the government of the District of Columbia before October 1, 1987”. 5 U.S.C. § 8331 (g). The section does not categorically exclude members of the Metropolitan Police Department. *Compare* 5 U.S.C. § 8101(1)(E)(iv) (specifically

excluding a member of the Metropolitan Police who is pensioned under (now) D.C. CODE § 5-701 *et seq.*); D.C. CODE § 5-733 (same).

42. By action of the Consolidated Appropriations Act of 2008, the United States Congress legislated a superior federal effect to D.C. Act 15-489, stating that D.C. Act 15-489 would only not withstand 5 U.S.C. § 8344(a). PUB. L. 110-161, Sec. 807, 121 STAT. 1844.

43. Such legislation was consistent with other contemporaneous federal policies removing unnecessary economic disadvantages to reemployed annuitants. *See* PUB. L. 106-65, 113 STAT. 512, Sec. 651 (similar federal legislation repealing offset provisions for military annuitants); 5 U.S.C. § 8344(i) (waiver of offsets permitted under federal law) and § 8468 (offsets not applicable to positions with a different retirement system).

44. Section 807 of the Consolidated Appropriations Act of 2008 effectively superseded or repealed D.C. Code § 5-723(e) insofar as it was applicable to “an individual first employed by the government of the District of Columbia before October 1, 1987”.

45. 5 U.S.C. § 8344(a) refers to reemployment in a federal appointive or elective position and is therefore not applicable to the named Plaintiffs or members of the proposed Plaintiff Class.

46. Each of the named Plaintiffs herein was paid their salary for their new District of Columbia government job without the D.C. Code § 5-723(e) reduction in offset of their annuity until 2012.

47. On December 7, 2011, the Washington City Paper reported that Plaintiff Louis Cannon and other District of Columbia retirees “have been improperly paid both a full pension and full salary for several years even though the D.C. Code prohibits that”. Disaster Pay, WASHINGTON CITY PAPER, December 7, 2011. <http://www.washingtoncitypaper.com/blogs/looselips/2011/12/07/disaster-pay/> (accessed January 26, 2012).

48. The Washington City Paper further reported that the Chief of Police of the District of Columbia Metropolitan Police Department recently provided raises to its reemployed federal annuitants to offset the offset that was about to be imposed upon them.

Commander Daniel Hickson, who oversees the MPD’s First District, saw his pay jump from \$129,999 to \$177,000. Lieutenant Jacob Major’s salary went from \$100,000 to \$136,050. And Bill Sarvis, a medical services manager who has only been on the job since March, had his salary go from \$125,000 to \$152,686. For Hickson and Major, their salaries now far eclipse what others of similar ranks are making.

Id.

49. None of the named Plaintiffs, and none the members of the proposed Plaintiff class, received any such pay raise.

50. On or about January 25, 2012, each of the named Plaintiffs learned that the District of Columbia had reduced the pay for each of their respective first pay periods of 2012 by such amount to offset such annuitant’s annuity from the salary otherwise payable for their positions.

COUNT I

Deprivation of a Property Interest

51. The allegations set forth in Paragraphs 1 through 50 above are referenced and incorporated as if fully repeated herein.

52. By taking pay accrued to them in consideration of services rendered to the District of Columbia in direct violation of D.C. Act 15-489, the Defendant unlawfully deprived property rights vested upon the Plaintiffs by law, including a reliance interest in continuing undiminished benefits of their respective employment. Such property interests have been taken absent any due process or compensation, in violation of the Fifth and Fourteenth Amendments of the U.S. Constitution.

53. Such taking was the official policy of the District of Columbia government.

COUNT II

Violation of the Fair Labor Standards Act

54. The allegations set forth in Paragraphs 1 through 53 above are referenced and incorporated as if fully repeated herein.

55. The District of Columbia government is obligated to pay the federally mandated minimum wage to its employees as “the government of a State...[or] any agency of...a State.” 29 U.S.C. §§ 203 (c), (x). *See Wilson-Jones v. Caviness*, 99 F.3d 203, 207 (6th Cir. 1996).

56. By reducing the Plaintiffs’ pay by such amount to offset the Plaintiffs’ annuity from the salary otherwise payable for their positions, the District of Columbia has

reduced the actual pay paid to some Plaintiffs below that of the federally mandated minimum wage, in violation of the Fair Labor Standards Act.

57. Effective July 24, 2009, the federal minimum wage is \$7.25 per hour. <http://www.dol.gov/whd/minimumwage.htm> (accessed February 5, 2012).

58. For the pay period January 1-14, 2012, Plaintiff Gerald Neill was paid by the District of Columbia gross pay of \$556.88, before taxes and benefit withholding, for 80 hours work as a senior police administrator, or an effective pay rate of \$6.96 per hour.

59. For the pay period January 1-14, 2012, Plaintiff Sheila Ford-Haynes was paid by the District of Columbia gross pay of \$479.77, before taxes and benefit withholding, for 80 hours work as a senior police administrator, or an effective pay rate of \$6.00 per hour.

60. For the pay period January 1-14, 2012, Plaintiff Harry Weeks was paid by the District of Columbia gross pay of \$290.22, before taxes and benefit withholding, for 80 hours work and 6 hours overtime work as a police patrol supervisor, or an effective pay rate of \$3.26 per hour straight time and \$4.89 overtime.

61. The hourly rates paid to these Plaintiffs was in violation of Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*

COUNT III

Deprivation of Equal Protection Under Law

62. The allegations set forth in Paragraphs 1 through 61 above are referenced and incorporated as if fully repeated herein.

63. The District of Columbia government has reduced the pay of each of the Plaintiffs, and the members of the proposed Plaintiff Class, by such amount to offset such Plaintiffs' annuity, and the annuities of the proposed Plaintiff Class, from the salary otherwise payable for their positions.

64. The District of Columbia government has offset this offset for other similarly situated persons without a rational basis under law.

65. On information presently available to the Plaintiffs, including the information described within Paragraph 47 above, and their belief, Commander Daniel Hickson was first employed by the District of Columbia government prior to October, 1, 1987.

66. On such information and belief, Commander Hickson retired from the District of Columbia government and now receives federal annuity retirement benefits in the same manner as the Plaintiffs and the members of the proposed Plaintiff Class.

67. On such information and belief, Commander Hickson was subsequent to his retirement and after December 7, 2004, rehired by the District of Columbia.

68. On such information and belief, Commander Hickson recently received a \$47,001.00 *per annum* raise in his District of Columbia pay solely to offset the federal annuity offset otherwise imposed upon the similarly situated Plaintiffs and members of the proposed Plaintiff Class.

69. On such information and belief, Lieutenant Jacob Major was first employed by the District of Columbia government prior to October, 1, 1987.

70. On such information and belief, Lieutenant Major retired from the District of Columbia government and now receives federal annuity retirement benefits in the same manner as the Plaintiffs and the members of the proposed Plaintiff Class.

71. On such information and belief, Lieutenant Major was subsequent to his retirement and after December 7, 2004, rehired by the District of Columbia.

72. On such information and belief, Lieutenant Major recently received a \$36,050.00 *per annum* raise in his District of Columbia pay solely to offset the federal annuity offset otherwise imposed upon the similarly situated Plaintiffs and the members of the proposed Plaintiff Class.

73. On such information and belief, William Sarvis was first employed by the District of Columbia government prior to October 1, 1987.

74. On such information and belief, Mr. Sarvis retired from the District of Columbia government and now receives federal annuity retirement benefits in the same manner as the Plaintiffs and the members of the proposed Plaintiff Class.

75. On such information and belief, Mr. Sarvis was subsequent to his retirement and after December 7, 2004, rehired by the District of Columbia.

76. On such information and belief, Mr. Sarvis recently received a \$27,686.00 *per annum* raise in his District of Columbia pay solely to offset the federal annuity offset otherwise imposed upon the similarly situated Plaintiffs and the members of the proposed Plaintiff Class.

77. By the District of Columbia government enforcing this offset against the Plaintiffs, and the members of the proposed Plaintiff Class, but effectively negating the effect of the offset on other persons by simply giving them more money, the Plaintiffs

and the members of the proposed Plaintiff Class have been denied equal protection of the laws.

78. Such deprivation of equal protection of the laws was a direct result of an official policy of the District of Columbia government.

Count IV

Violation of the District of Columbia Self-Government and Governmental Reorganization Act

79. The allegations set forth in Paragraphs 1 through 78 above are referenced and incorporated as if fully repeated herein.

80. The District of Columbia Self-Government and Governmental Reorganization Act, Pub. L. No. 93-198, 87 Stat. 774 (1973) (codified as amended at D.C. Code § 1-201.01 *et seq.*), prohibits the District of Columbia government from imposing “any tax on the whole or any portion of the personal income, either directly or at the source thereof, of any individual not a resident of the District”. D.C. CODE § 1-206.02.

81. The District of Columbia has taken the pay of the Plaintiffs, and those members of the proposed Plaintiff Class who are not residents of the District of Columbia to “offset” retirement benefits, including federal annuity benefits the District of Columbia does not pay, effectively imposing a direct tax upon non-residents of the District of Columbia.

82. Such a tax on non-residents of the District of Columbia violates D.C. Code § 1-206.02.

83. Such a tax is without lawful authority and is an unconstitutional taking in violation of the Fifth and Fourteenth Amendments.

Count V

Breach of Contract

84. The allegations set forth in Paragraphs 1 through 83 above are referenced and incorporated as if fully repeated herein.

85. The Plaintiffs, and the members of the proposed Plaintiff Class, entered into contracts of re-employment with the District of Columbia government in which they agreed to provide good and valuable services in exchange for the salaries offered.

86. The Plaintiffs, and the members of the proposed Plaintiff Class, completed all of their obligations of the bargain, yet were deprived of such promised pay after they had provided their services.

87. The failure of the District of Columbia to pay the Plaintiffs, and the members of the proposed Plaintiff Class, for their services breached the express and implied provisions of their respective contracts of re-employment with the District of Columbia as well as implied covenants of good faith and fair dealing.

88. The Plaintiffs, and the members of the proposed Plaintiff Class, were injured as a direct and proximate cause of such breach by the District of Columbia.

89. The failure of the District of Columbia to pay the Plaintiffs and the members of the proposed Plaintiff Class violates the spirit and intent of federal law regarding such federal annuitants, including the Consolidated Appropriations Act of 2008, *supra*.

90. This Court must create federal common law to clarify and enforce these federal laws.

Count VI

Unjust Enrichment

91. The allegations set forth in Paragraphs 1 through 90 above are referenced and incorporated as if fully repeated herein.

92. If the Court finds no contract between the parties, the District of Columbia government has nevertheless retained a benefit, the Plaintiffs' pay, and the pay of the members of the proposed Plaintiff Class, which in justice and equity belongs to them.

93. The failure of the District of Columbia to pay the Plaintiffs and the members of the proposed Plaintiff Class violates the spirit and intent of federal law regarding such federal annuitants, including the Consolidated Appropriations Act of 2008, *supra*.

94. This Court must create federal common law to clarify and enforce these federal laws.

Count VII

Detrimental Reliance/Promissory Estoppel

95. The allegations set forth in Paragraphs 1 through 94 above are referenced and incorporated as if fully repeated herein.

96. The Plaintiffs, and the members of the proposed Plaintiff Class, entered into contracts of re-employment upon the District of Columbia government's promise to pay them the respective salaries indicated.

97. The Plaintiffs, and the members of the proposed Plaintiff Class, reasonably relied upon such promises.

98. The Plaintiffs, and the members of the proposed Plaintiff Class, relied upon such promises to their detriment.

99. The injustice to the Plaintiffs, and the members of the proposed Plaintiff Class, was not avoidable.

Count VIII

Intentional or Negligent Misrepresentation

100. The allegations set forth in Paragraphs 1 through 99 above are referenced and incorporated as if fully repeated herein.

101. Agents of the District of Columbia falsely or negligently represented, or failed to disclose, to the Plaintiffs and the members of the proposed Plaintiff Class that they would be subject to an offset for their federal annuities from the salary otherwise payable for their positions

102. Such misrepresentation or omission was material to their re-employment with the District of Columbia government.

103. The Plaintiffs, and the members of the proposed Plaintiff Class, reasonably relied upon the misrepresentation or omission to their detriment and were injured as a direct and proximal cause thereof.

Request for Declaratory and Injunctive Relief

104. The allegations set forth in Paragraphs 1 through 103 above are referenced and incorporated as if fully repeated herein.

105. The Plaintiffs, and the members of the proposed Plaintiff Class, are entitled to declaratory relief under 28 U.S.C. § 2201(a), wherein the Plaintiffs ask this Court to declare the offset upon their salaries, and the salaries of the proposed Plaintiff Class, to be unlawful.

106. The Plaintiffs ask this Court to maintain the *status quo* and enjoin the Defendant from making any further offset of the Plaintiffs' salaries and the salaries of the proposed Plaintiff Class. The Plaintiffs further ask the Court to direct the Court to return such offsets previously taken.

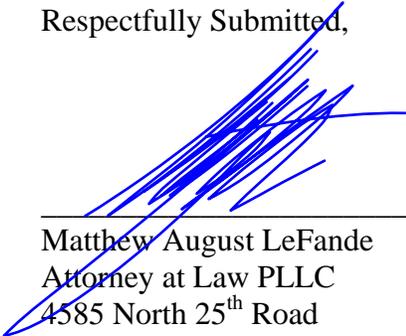
WHEREFORE, the Plaintiffs request the Court to find the Defendant's actions to be unlawful and injurious to the Plaintiffs and the other members of the proposed Plaintiff Class. The Plaintiffs demand monetary damages exceeding twenty dollars, in an amount to be determined according to proof at trial, plus costs, interest and attorney's fees, as provided by, *inter alia*, 29 U.S.C. § 216(b) and 42 U.S.C. § 1988.

The Plaintiffs further ask the Court to award such punitive damages as the Court finds necessary to appropriately punish the Defendant and deter similar misconduct in the future.

There being an insufficient remedy at law, the Plaintiffs request equitable relief.

The Plaintiffs demand a jury trial on all issues so triable.

Respectfully Submitted,



Matthew August LeFande
Attorney at Law PLLC
4585 North 25th Road
Arlington VA 22207
Tel: (202) 657-5800
Fax: (202)318-8019
email: matt@lefande.com
Attorney for the Plaintiffs
DC Bar #475995