

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

CHRIS RICE, individually and on behalf all other similarly situated individuals,)	
)	
)	CASE NO.
)	
<i>Plaintiff,</i>)	COLLECTIVE ACTION
)	
v.)	JURY TRIAL DEMANDED
)	
Government Employee Insurance Company d/b/a GEICO, and GEICO General Insurance Company d/b/a GEICO,)	
)	

Defendants.

COLLECTIVE ACTION COMPLAINT

1. Plaintiff, CHRIS RICE, individually and on behalf of all similarly situated employees, brings this action against the Defendants Government Employee Insurance Company d/b/a GEICO and GEICO General Insurance Company d/b/a GEICO (collectively “Defendants”) seeking to recover unpaid overtime wages, liquidated damages and any other legal or equitable relief for Defendant’s violations of the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et. seq., (“FLSA”). Plaintiff asserts the wage claims as a collective action on behalf of himself and all other similarly situated individuals pursuant to Section 216(b) of the FLSA, 29 U.S.C. § 216(b).

2. Defendants own and operate an insurance company that services clients who reside in various states across the United States, including in the state of Georgia. Plaintiff and those similarly situated worked as Sales Representatives for Defendants and were assigned to work at one or more of Defendants' call centers. As used herein, the term "Sales Representative" includes but is not limited to, sales agents, Geotel agents, auto bundle sales representatives and/or any hourly employee who answers or responds to telephone calls or other electronic communication from potential customers regarding the purchase of a GEICO insurance policy. Defendants generally paid Plaintiff and those he seeks to represent on an hourly basis. Defendants, however, failed to satisfy their wage obligations to Plaintiff and similarly situated current and former employees by failing to pay Sales Representatives for all hours worked.

3. As a result of these practices, Defendants failed to pay Plaintiff and similarly situated Sales Representatives the required overtime wage, pursuant to 29 U.S.C. § 207. Plaintiff and those he seeks to represent are therefore entitled to recover the proper overtime wages for all hours worked over forty (40) in a workweek, liquidated damages, and all attorney's fees and costs. 29 U.S.C. § 216(b). Plaintiff asserts these FLSA wage claims as a collective action, on behalf of himself and all other similarly situated pursuant to 29 U.S.C. § 216(b).

4. The Defendants retaliated against the Plaintiff when he complained about the Defendants failure to pay Sales Representatives for all hours worked and indicated

that he would file a complaint with the Department of Labor if Defendants did not correct their unlawful pay practices.

I. JURISDICTION AND VENUE

5. This Court has jurisdiction over Plaintiff's claims under the FLSA because they are brought pursuant to 29 U.S.C. § 216(b) and raise a federal question pursuant to 28 U.S.C. § 1331.

6. Venue properly lies in this judicial district pursuant to 28 U.S.C. § 1391 because Defendants reside in this judicial district and conduct business in this district.

II. PARTIES

7. Plaintiff Chris Rice is over the age of nineteen (19) and is a resident of the City of Gray, Jones County, Georgia. Mr. Rice worked as a Sales Representative (as explained herein) for the Defendants at its Macon, Georgia call center and was paid by the hour. Mr. Rice has authorized the filing of this action. (*See*, Exhibit A)

8. Plaintiff brings this action on behalf of himself, and all similarly situated employees who worked for Defendants as Sales Representatives and were assigned to work for and/or were managed out of the GEICO Macon, Georgia call center.

9. Defendant Government Employees Insurance Company d/b/a GEICO is a Maryland corporation with a principal place of business at 5260 Western Avenue, Chevy Chase, Maryland 20815.

10. Defendant Government Employees Insurance Company d/b/a GEICO indicates its registered agent as C T Corporation System located at 289 S Culver St, Lawrenceville, Georgia 30046-4805.

11. At all relevant times, Defendant Government Employees Insurance Company d/b/a GEICO has been an “employer” within the meaning of the FLSA, 29 U.S.C. §§ 203, 206-07.

12. Defendant GEICO General Insurance Company d/b/a GEICO is a Maryland corporation with a principal place of business at 5260 Western Avenue, Chevy Chase, Maryland 20815.

13. Defendant GEICO General Insurance Company d/b/a GEICO indicates its registered agent as C T Corporation System located at 289 S Culver St, Lawrenceville, Georgia 30046-4805.

14. At all relevant times, GEICO General Insurance Company d/b/a GEICO has been an “employer” within the meaning of the FLSA, 29 U.S.C. §§ 203, 206-07.

15. Defendants regularly conduct business in the state of Georgia, including in this judicial district.

III. FACTS

16. Plaintiff and similarly situated employees are current and former Sales Representatives. As indicated above, the term “Sales Representative” includes but is not limited to, sales agents, Geotel agents, auto bundle sales representatives and/or any

hourly employee who answers or responds to telephone calls or other electronic communication from potential customers regarding the purchase of a GEICO insurance policy.

17. As a Sales Representative, Plaintiff and those similarly situated handle calls and/or other electronic communications from prospective customers seeking a GEICO insurance policy.

18. In addition to Plaintiff, GEICO employs hundreds of other Sales Representatives at multiple call centers located throughout the United States. Each Sales Representative is required to be licensed in multiple States because they take applications and bind policies for customers located in different States. GEICO refers to Sales Representatives licensed in multiple States as “GeoTel agents.” Hourly employees working as a Sales Representative for GEICO at a call center in the United States must be a “GeoTel agent.” GEICO also requires all Sales Representatives to undergo the same training to obtain licenses in multiple states.

19. GEICO classifies Plaintiff and other Sales Representatives as non-exempt employees for purposes of the FLSA.

20. Plaintiff and other Sales Representatives are employees who are covered by the overtime provisions of the FLSA.

21. On or about March 1, 2020, GEICO began remotely employing its Sales Representatives, including Plaintiff. Likewise, around this time GEICO changed its

pay and timekeeping policies and practices for Plaintiff and other Sales Representatives to reflect this change to remote work.

22. GEICO paid Plaintiff and the other Sales Representatives he seeks to represent on an hourly basis.

23. All Sales Representatives assigned to a call center in the United States use a Cisco software application called “Finesse” to handle calls prospective customers. Though assigned to the Macon Georgia call center, Plaintiff handled calls from residents throughout the United States seeking coverage in a State other than the State of Georgia. All Sales Representatives assigned to a call center located in the United States likewise handle calls prospective customers located in another State and seeking coverage in that State.

24. Plaintiff and similarly situated Sales Representatives use a Cisco software application called “Finesse” to handle calls.

25. Finesse tracks the amount of time Plaintiff and similarly situated Sales Representatives spend logged into it.

26. Plaintiff and similarly situated Sales Representatives spend time performing work activities that are not recorded by Finesse.

27. For example, Plaintiff and similarly situated Sales Representatives must spend several minutes each shift completing a multi-step process on their computers before their scheduled shift start time and before being able to log onto Finesse, which

includes, but is not limited to: powering up their computer, bringing up Microsoft Windows, connecting to GEICO's virtual private network ("VPN"), loading the various programs, software, applications, and/or websites needed for handling sales calls, and reading and responding to emails from management.

28. Time spent performing these tasks is not recorded by Finesse because they occur prior to logging into Finesse.

29. Sales Representatives must perform these work tasks in order to perform their job handling sales calls.

30. Likewise, Sales Representatives must spend several minutes each shift completing a multi-step process on their computers after they have logged out of Finesse at or around their scheduled shift end time, which includes, but is not limited to: closing out of programs, software, applications, etc.; reading and responding to emails; updating notes and/or documents; and entering time into Workday.

31. Time spent performing these tasks is not recorded by Finesse because they occur after logging out of Finesse.

32. Sales Representatives must perform these work tasks in order to perform their job.

33. Further, if a Sales Representative is unable to read and/or respond to emails prior to the start of their scheduled shift, the employee will typically respond to emails during their unpaid lunch break or after the end of their scheduled shift.

34. Time spent performing these tasks is not recorded by Finesse because they occur after logging out of Finesse.

35. Additionally, Plaintiff and similarly situated Sales Representatives frequently experience “downtime” during the workday related to technical problems.

36. When Sales Representatives experience downtime, they are expected to remain by their computers and/or on the phone to seek assistance from a supervisor, manager, and/or GEICO’s IT department, so that they can access Finesse in order to be able to perform their jobs.

37. When downtime occurred, GEICO required Sales Representatives, like Plaintiff, to make up the time, for example, by working past the end of their scheduled shift time (*i.e.*, effectively off-the-clock) or having the downtime deducted from their accrued paid leave or vacation time.

38. For example, during each workweek in the relevant period (*i.e.*, since October 20, 2020), Plaintiff and similarly situated workers experienced downtime of approximately two (2) hours, and sometimes more, per week as a result of technical problems. The downtime occurred during scheduled shifts for Plaintiff and those similarly situated. Plaintiff would contact GEICO’s IT department to have the problem fixed. During this downtime, as per company policy, Plaintiff remained by his work computer and/or on the phone waiting for the IT department to correct the problem because Plaintiff was required to log onto Finesse to start handling calls immediately

after he received notification from the IT department that the problem was corrected.

39. Plaintiff was required to make up the downtime off-the-clock. To do this, Plaintiff would typically have to either work during his unpaid lunch break or work past the end of the shift. GEICO did not compensate Plaintiff for the hours he worked to makeup the downtime.

40. Plaintiff's supervisor was aware that Plaintiff was working off-the-clock to make-up for the downtime, and, in fact, expressly instructed him to do so in accordance with GEICO's policies.

IV. COLLECTIVE ACTION ALLEGATIONS

41. Plaintiff asserts his FLSA claims pursuant to 29 U.S.C. § 216(b) as a collective action on behalf of all similarly situated individuals who fall into the following definition and join this action by filing a consent form:

All current and former Sales Representatives¹ who worked for GEICO at a call center in the United States at any time since October 19, 2020 (the "Putative FLSA Opt-In Plaintiffs").

42. Plaintiff's FLSA claims should proceed as a collective action because Plaintiff and the Putative FLSA Opt-In Plaintiffs worked pursuant to the common pay policies and/or practices described herein. Accordingly, Plaintiff and other current and

¹ The term "Sales Representative" includes but is not limited to, sales agents, Geotel agents, auto bundle sales representatives and/or any hourly employee who answers or responds to telephone calls or other electronic communication from potential customers regarding the purchase of a GEICO insurance policy.

former Sales Representatives are “similarly situated” as that term is defined in 29 U.S.C. § 216(b) and associated decisional law.

V. CAUSES OF ACTION

COUNT I (Violation of FLSA’s Overtime Wage Requirements)

43. All previous paragraphs are incorporated a though fully set forth herein.

44. As described in more detail above, the Defendants adopted policies and practices that required Plaintiff and similarly situated Sales Representatives to perform work off-the-clock.

45. The Defendants were aware that Plaintiff and similarly situated Sales Representatives were performing work off-the-clock and that this time was not being paid. The Defendants knew that only paying employees from hours recorded in Finesse (a call management software) underestimated the actual hours of work and that Plaintiff and similarly situated Sales Representatives had to perform in order to perform their jobs.

46. Defendants also knew that Plaintiff and similarly situated Sales Representatives were not paid for all the downtime they experienced.

47. Plaintiff asserts this claim individually and on behalf of all similarly situated Sales Representatives who opt into this action by filing a consent form pursuant to 29 U.S.C. § 216(b).

48. The Defendants violated 29 U.S.C. § 207 when they failed to pay Plaintiff and similarly situated Sales Representatives for all hours worked, including overtime hours worked. Under 29 U.S.C. § 207, the Defendants were required to pay Plaintiff and similarly situated Sales Representative an overtime rate of not less than one and one-half times their regular rate of pay for hours worked over forty (40) during a work week. By not paying Plaintiff and similarly situated Sales Representatives for all “hours worked,” the Defendants failed to pay them the overtime premium for all hours worked over forty during a workweek as required under 29 U.S.C. § 207.

49. The Defendants knew or acted in reckless disregard of their obligation under the FLSA to pay Plaintiffs and similarly situated Sales Representatives for all time spent working.

COUNT II
(FLSA Retaliation)

50. All previous paragraphs are incorporated as though fully set forth herein.

51. Since at least early January 2023, the Plaintiff complained that his managers were adjusting his time sheets and not recording all hours worked. Plaintiff had complained that he was not being paid for time spent booting up his computer and loading programs needed to take calls.

52. On April 10, 2023, the Plaintiff complained to Clifford Rushin (the Sales manager) about the repeated problems with his time sheet. Plaintiff stated that he

believed the deliberate refusal to pay him for all hours worked was unlawful and that he planned on filing a complaint with the Department of Labor. Mr. Rushin told the Plaintiff that he would investigate the matter.

53. On April 19, 2023, Plaintiff was called into a meeting with Mr. Rushin and told that he was being investigated for violations of Company policy. The alleged violations were discovered after managers audited Plaintiff's call. Mr. Rushin told Plaintiff that there were two calls which Plaintiff did not handle properly. Plaintiff explained his reasons for handling the calls in the manner that he did and that he did not violate any GEICO policy that he was aware of.

54. During the April 19 meeting, Mr. Rushin informed Plaintiff that he was recommending that GEICO terminated his employment. Approximately two weeks later, the Defendants terminated Plaintiff's employment. Plaintiff was terminated for complaining about pay practices. Plaintiff's complaint is protected activity under 29 U.S.C. § 215(a)(3).

55. Plaintiff filed for unemployment benefits and received an administrative award stating that the Defendants had failed to show that Plaintiff violated a company policy or rule.

56. The Defendants are vicariously liable for the conduct of Plaintiff's supervisor and thus violated 29 U.S.C. § 215(a)(3)'s anti-retaliation provision.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief on behalf of himself and all others similarly situated:

(a) Court-authorized notice of this lawsuit, pursuant to 29 U.S.C. § 216(b), to all Putative FLSA Opt-In Plaintiffs;

(b) A finding that the Defendants each violated the FLSA;

(c) A finding that Defendants' FLSA violations are willful;

(d) A judgment against Defendants and in favor of Plaintiff and all similarly situated employees for compensation for all unpaid and underpaid wages that Defendants have failed and refused to pay in violation of the FLSA;

(e) A judgment against Defendants and in favor of Plaintiff for any lost wages and benefits resulting from the Defendant's unlawful retaliation and liquidated damages in an equal amount;

(f) A judgment reinstating Plaintiff to his former position;

(g) Compensatory and/or punitive damages to the extent allowed by law;

(h) Prejudgment interest to the fullest extent permitted under the law;

(i) Liquidated damages to the fullest extent permitted under the FLSA;

(j) Litigation costs, expenses, and Plaintiff's attorneys' fees to the fullest extent permitted under the FLSA and the Federal Rules of Civil Procedure; and

(k) Such other and further legal, injunctive or equitable relief that the Court deems just and proper to remedy established violations of law.

VII. JURY DEMAND

Plaintiffs demand a jury as to all claims so triable.

Date: October 19, 2023

Respectfully submitted,

/s/ Nicolas Stanojevich

NICHOLAS STANOJEVICH (No. 173544)
QUINN, CONNOR, WEAVER, DAVIES & ROUCO,
LLP
4100 Perimeter Park South
Atlanta, GA 30341
Telephone: (404) 299-1211
nstanojevich@qcwdr.com

RICHARD ROUCO (ASB 6182 R76R)*
QUINN, CONNOR, WEAVER, DAVIES & ROUCO,
LLP
2 - 20th Street North, Suite 930
Birmingham, AL 35203
Telephone: (205) 870-9989
rrouco@qcwdr.com

DAVID W. GARRISON (TN Bar No. 24968)*
JOSHUA A. FRANK (TN Bar No. 33294)*
NICOLE A. CHANIN (TN Bar No. 40239)*
BARRETT JOHNSTON MARTIN & GARRISON,
PLLC
200 31st Avenue North
Nashville, TN 37203
Telephone: (615) 244-2202
Facsimile: (615) 252-3798

dgarrison@barrettjohnston.com
jfrank@barrettjohnston.com
nchanin@barrettjohnston.com

* *Pro Hac Vice* Motion Anticipated

Attorneys for Plaintiffs