

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
GAINESVILLE DIVISION**

SHARON BOOTH,	)	
	)	
Plaintiff,	)	
	)	Civil Action File
vs.	)	No. <u>2:22-cv-00237-RWS</u>
	)	
LUMPKIN COUNTY BOARD	)	
OF COMMISSIONERS,	)	
	)	
Defendant.	)	

**COMPLAINT**

Plaintiff Sharon Booth (“Plaintiff” or “Booth”), by and through counsel, files this Complaint against Defendant Lumpkin County Board of Commissioners (“Defendant” or “Lumpkin County”) for violations of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201 *et seq.*, by failing to pay Plaintiff proper overtime wages. Plaintiff files this Complaint against Defendant to recover unpaid wages, liquidated damages, prejudgment interest, costs, and attorneys’ fees.

In support of her claims, Plaintiff asserts as follows:

**INTRODUCTION**

1. This lawsuit arises from the failure of Defendant to properly calculate and pay Plaintiff overtime wages during the relevant period, three years prior to the filing of this lawsuit through October 2022. At all times relevant, Defendant

misclassified Plaintiff as exempt from the FLSA's maximum hours provisions, thereby depriving her of overtime compensation for overtime worked.

### **JURISDICTION AND VENUE**

2. This court has subject matter jurisdiction over Plaintiff's FLSA claims pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 216(b).

3. Venue is proper in this Northern District of Georgia pursuant to 28 U.S.C. § 1391. Defendant transacts business in this judicial district and the events giving rise to the claims herein occurred in this judicial district and division.

### **THE PARTIES**

4. Plaintiff Booth is a resident of Georgia in this judicial district and division.

5. At all times during the relevant period, Defendant employed Plaintiff as a Battalion Chief for the Lumpkin County Fire Department.

6. Defendant Lumpkin County is a municipal corporation and political subdivision of the State of Georgia organized and existing under the Constitution of the State of Georgia.

7. Defendant Lumpkin County can be served through the Chairman of its Board of Commissioners, Chris Dockery at 99 Courthouse Hill, Dahlonega, GA 30533.

8. Plaintiff was engaged in commerce, *i.e.* working as a Battalion Chief and is expressly covered under the overtime provisions of the FLSA pursuant to 29 U.S.C. §§ 203(y), 207(k) and 29 C.F.R. § 541.3(b)(1). Plaintiff is thus subject to individual coverage of the FLSA pursuant to 29 U.S.C. § 207(a)(1).

9. At all relevant times, Plaintiff has been entitled to the rights, protections, and benefits provided under the FLSA, 29 U.S.C. § 201, *et seq.*

10. At all relevant times, Defendant has continuously been an employer as defined by Section 3(d) of the FLSA 29 U.S.C. § 203(d), and are a “public agency” within 29 U.S.C. § 203(x), all located within the Northern District of Georgia, Gainesville Division.

11. Defendant is and was “an enterprise engaged in commerce or in the production of goods for commerce” within the meaning of 29 U.S.C. § 203(s)(1)(C).

12. At all relevant times, Defendant has been aware of the provisions of the FLSA, 29 U.S.C. § 201, *et seq.*

12. At all relevant times, Defendant Glynn County is an enterprise, as defined by Section 3(r) of the FLSA 29 U.S.C. § 203(r).

13. Defendant employed Plaintiff throughout the relevant period.

**FACTUAL BASIS OF PLAINTIFF’S CLAIMS**

14. Plaintiff was employed by Defendant as a Battalion Chief.

15. At all times during her employment, Plaintiff was a non-exempt employee of Defendant.

16. At all relevant times, Plaintiff was an “employee” of Defendant as that term is defined in 29 U.S.C. § 203(e)(1).

17. At all relevant times, Defendant employed Plaintiff within the meaning of the FLSA.

18. At all relevant times, Defendant classified Plaintiff as wholly exempt from the FLSA’s overtime requirements and failed to pay Plaintiff for hours worked in excess of 212 hours in any given twenty-eight (28) day work period, or in excess of 40 hours in any work week.

**A. Plaintiff’s Employment with Defendant.**

19. Defendant hired Plaintiff in approximately September 2008 as a paramedic/firefighter for the Lumpkin County Fire Department.

20. In January 2012, Defendant promoted Plaintiff to Battalion Chief.

21. Plaintiff’s employment with Defendant ended in approximately October 2022.

22. While Plaintiff was employed as a Battalion Chief, her primary duties

included fighting fires, rescuing fire and accident victims, and minimizing property damage from accidents and fires.

23. While Plaintiff was employed as a Battalion Chief, she was trained in fire suppression and emergency medical services, had the legal authority and responsibility to engage in fire suppression, was employed by a fire department of a county and was engaged in the prevention, control, and extinguishment of fires or response to emergency situations where life, property, or the environment was at risk.

24. As a Battalion Chief, Plaintiff's primary duty was to fight fires, rescue fire and accident victims, and minimize property damage from accidents and fires.

25. In performing her job duties for Defendant, Plaintiff did not have the authority to hire or fire any employee.

26. In performing her job duties for Defendant, Plaintiff did not exercise any discretion or independent judgment with regard to matters of significance.

27. Plaintiff's job duties did not include primary work that requires knowledge of any advanced type in a field customarily acquired by prolonged, specialized, intellectual instruction or study.

28. While Plaintiff would direct the work of other firefighters and rescue personnel at the scene of the calls on which she responded, Plaintiff also performed

the work of fire extinguishment and rescue of accident victims.

**B. Plaintiff's Unpaid Overtime.**

29. Defendant paid Plaintiff a flat salary regardless of the amount of hours Plaintiff worked.

30. Defendant denied Plaintiff payment of overtime wage compensation required by the FLSA for any hours working in excess of 212 hours in any given twenty-eight (28) day work period, or in excess of 40 hours in any work week

31. While Plaintiff's schedule varied, she regularly worked in excess of 212 hours in any given twenty-eight (28) day work period, or in excess of 40 hours in any work week.

32. Plaintiff also regularly performed work while not on shift and for which Defendant did not maintain accurate time records. Such work included, but was not limited to, attending a monthly Battalion Chiefs' meeting which lasted approximately four hours on average.

33. Other regular work performed by Plaintiff on days she was not scheduled to work and for which Defendant did not maintain accurate time records included attending meetings, answering phone calls, receiving and sending text messages and emails, serving on "on-call" capacity, completing evaluations and reports, responding to emergencies, scheduling and other tasks.

34. Defendant willfully and/or deliberately failed to pay Plaintiff her earned overtime wages for hours in violation of the FLSA.

35. Defendant maintained records of hours that Plaintiff worked.

**COUNT I**  
**FAIR LABOR STANDARDS ACT VIOLATIONS**  
**UNPAID OVERTIME**

36. Plaintiff realleges and incorporates by reference the preceding paragraphs of the Complaint as if they were set forth fully herein.

37. At all relevant times, Defendant was engaged in interstate commerce and/or the production of services for commerce, within the meaning of the FLSA, 29 U.S.C. § 207(a).

38. At all relevant times, Defendant employed Plaintiff within the meaning of the FLSA, 29 U.S.C. §§ 201 et seq.

39. At all relevant times, Defendant was an enterprise (as that term is defined in the FLSA, 29 U.S.C. § 203(r) and (s)(1)) with multiple employees (including Plaintiff) who were engaged in commerce or in handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person.

40. At all relevant times, Defendant had a policy and practice of failing to pay Plaintiff properly for all overtime hours in violation of the FLSA.

41. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within the meaning of the statute, 29 U.S.C. § 255(a).

42. Plaintiff suffered damages due to Defendant's willful misconduct.

43. Due to Defendant's FLSA violations, Plaintiff was damaged and is entitled to recover from Defendant compensation for unpaid overtime wages; an additional equal amount as liquidated damages; and reasonable attorneys' fees, costs, and disbursements of this action, pursuant to 29 U.S.C. § 216(b).

**WHEREFORE**, Plaintiff demands a trial by jury and requests that this Court grant the following relief against Defendant:

- A. An award of compensation for unpaid overtime wages to Plaintiff;
- B. An award of all liquidated damages for unpaid wages to Plaintiff;
- C. An award of costs and expenses of this action together with reasonable attorneys' and expert fees to Plaintiff; and
- D. Such other and further relief as this Court deems just and proper

Respectfully submitted this November 30, 2022.

**HALL & LAMPROS, LLP**

/s/ Gordon Van Remmen  
Gordon Van Remmen  
Ga. Bar # 215512

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gordon@hallandlampros.com

*Attorneys for Plaintiffs*

Plaintiff's counsel certifies that this complaint is in 14-point Times New Roman font.

**CIVIL COVER SHEET**

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

**I. (a) PLAINTIFF(S)**

Sharon Booth

**DEFENDANT(S)**

Lumpkin County Board of Commissioners

**(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF** Habersham Co.  
(EXCEPT IN U.S. PLAINTIFF CASES)

**COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT** \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

**(c) ATTORNEYS** (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

Gordon Van Remmen  
Hall & Lampros, LLP  
300 Galleria Pkwy SE, Suite 300 Atlanta, GA 30339  
(404) 876-8100  
gordon@hallandlampros.com

**ATTORNEYS** (IF KNOWN)

**II. BASIS OF JURISDICTION**

(PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. GOVERNMENT PLAINTIFF
- 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
- 2 U.S. GOVERNMENT DEFENDANT
- 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES**

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)  
(FOR DIVERSITY CASES ONLY)

- |                            |                            |   |                            |                            |   |
|----------------------------|----------------------------|---|----------------------------|----------------------------|---|
| PLF                        | DEF                        |   | PLF                        | DEF                        |   |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | CITIZEN OF THIS STATE                   | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE     |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | CITIZEN OF ANOTHER STATE                | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | CITIZEN OR SUBJECT OF A FOREIGN COUNTRY | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 | FOREIGN NATION  |

**IV. ORIGIN**

(PLACE AN "X" IN ONE BOX ONLY)

- 1 ORIGINAL PROCEEDING
- 2 REMOVED FROM STATE COURT
- 3 REMANDED FROM APPELLATE COURT
- 4 REINSTATED OR REOPENED
- 5 TRANSFERRED FROM ANOTHER DISTRICT (Specify District)
- 6 MULTIDISTRICT LITIGATION - TRANSFER
- 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT
- 8 MULTIDISTRICT LITIGATION - DIRECT FILE

**V. CAUSE OF ACTION**

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

FLSA 29 U.S.C. §§ 201 et. seq. for unpaid wages.

**(IF COMPLEX, CHECK REASON BELOW)**

- 1. Unusually large number of parties.
- 2. Unusually large number of claims or defenses.
- 3. Factual issues are exceptionally complex.
- 4. Greater than normal volume of evidence.
- 5. Extended discovery period is needed.
- 6. Problems locating or preserving evidence.
- 7. Pending parallel investigations or actions by government.
- 8. Multiple use of experts.
- 9. Need for discovery outside United States boundaries.
- 0. Existence of highly technical issues and proof.

**CONTINUED ON REVERSE**

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \$ \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ MAG. JUDGE (IFP) \_\_\_\_\_  
 JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_ (Referral) NATURE OF SUIT \_\_\_\_\_ CAUSE OF ACTION \_\_\_\_\_

**VI. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
- 120 MARINE
- 130 MILLER ACT
- 140 NEGOTIABLE INSTRUMENT
- 151 MEDICARE ACT
- 160 STOCKHOLDERS' SUITS
- 190 OTHER CONTRACT
- 195 CONTRACT PRODUCT LIABILITY
- 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
- 220 FORECLOSURE
- 230 RENT LEASE & EJECTMENT
- 240 TORTS TO LAND
- 245 TORT PRODUCT LIABILITY
- 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
- 315 AIRPLANE PRODUCT LIABILITY
- 320 ASSAULT, LIBEL & SLANDER
- 330 FEDERAL EMPLOYERS' LIABILITY
- 340 MARINE
- 345 MARINE PRODUCT LIABILITY
- 350 MOTOR VEHICLE
- 355 MOTOR VEHICLE PRODUCT LIABILITY
- 360 OTHER PERSONAL INJURY
- 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- 365 PERSONAL INJURY - PRODUCT LIABILITY
- 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
- 371 TRUTH IN LENDING
- 380 OTHER PERSONAL PROPERTY DAMAGE
- 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
- 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 440 OTHER CIVIL RIGHTS
- 441 VOTING
- 442 EMPLOYMENT
- 443 HOUSING/ ACCOMMODATIONS
- 445 AMERICANS with DISABILITIES - Employment
- 446 AMERICANS with DISABILITIES - Other
- 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
- 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
- 510 MOTIONS TO VACATE SENTENCE
- 530 HABEAS CORPUS
- 535 HABEAS CORPUS DEATH PENALTY
- 540 MANDAMUS & OTHER
- 550 CIVIL RIGHTS - Filed Pro se
- 555 PRISON CONDITION(S) - Filed Pro se
- 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
- 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
- 720 LABOR/MGMT. RELATIONS
- 740 RAILWAY LABOR ACT
- 751 FAMILY and MEDICAL LEAVE ACT
- 790 OTHER LABOR LITIGATION
- 791 EML. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
- 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT
- 835 PATENT-ABBREVIATED NEW DRUG APPLICATIONS (ANDA) - a/k/a Hatch-Waxman cases

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395f)
- 862 BLACK LUNG (923)
- 863 DIWC (405(g))
- 863 DIWW (405(g))
- 864 SSID TITLE XVI
- 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
- 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
- 376 Qui Tam 31 USC 3729(a)
- 400 STATE REAPPORTIONMENT
- 430 BANKS AND BANKING
- 450 COMMERCE/ICC RATES/ETC.
- 460 DEPORTATION
- 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- 480 CONSUMER CREDIT
- 490 CABLE/SATELLITE TV
- 890 OTHER STATUTORY ACTIONS
- 891 AGRICULTURAL ACTS
- 893 ENVIRONMENTAL MATTERS
- 895 FREEDOM OF INFORMATION ACT
- 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
- 950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTITRUST
- 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION (Confirm / Vacate / Order / Modify)

**\* PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

**VII. REQUESTED IN COMPLAINT:**

CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ \_\_\_\_\_  
 JURY DEMAND  YES  NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

**VIII. RELATED/REFILED CASE(S) IF ANY**

JUDGE \_\_\_\_\_ DOCKET NO. \_\_\_\_\_

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
- 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. \_\_\_\_\_, WHICH WAS DISMISSED. This case  IS  IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

*John Van Pelt*

11/30/2022

SIGNATURE OF ATTORNEY OF RECORD

DATE