

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	
	)	
David Hill, individually and on	)	
behalf of all others similarly	)	Civil Action No. 18-CP-42-
situated,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	<b>COMPLAINT</b>
	)	
Aaron's, Inc.,	)	
	)	
Defendant.	)	

Plaintiff David Hill (hereafter "Plaintiff" or "Hill"), individually and on behalf of all other similarly situated employees, brings this Class/Collective action lawsuit against Aaron's, Inc., (hereafter "Defendant") seeking recovery for Defendant's violations of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (hereafter "FLSA") and the South Carolina Payment of Wages Act, S.C. Code Ann. § 41-10-10 *et seq.* (hereafter "SCPWA"). Plaintiff, on his behalf and on behalf of those employees similarly situated, alleges as follows:

1. Hill is a resident of Spartanburg County, South Carolina.
2. Pursuant to 29 U.S.C. § 216(b), Plaintiff has consented in writing to be a party to the FLSA claims asserted herein. Such consent is attached hereto as Exhibit A.
3. Defendant Aaron's, Inc., is a corporation incorporated pursuant to the laws of the State of Georgia with a place of business in the County of Spartanburg, State of South Carolina.
4. Upon information and belief, Defendant sells goods and engages in interstate commerce.
5. During the relevant time-frame, Defendant was an "Employer" to Plaintiff as such is defined by the SCPWA.

6. Venue and jurisdiction are proper in this Court, because the actions complained of took place in Spartanburg County, South Carolina, the Court has personal jurisdiction over Defendant, and 29 U.S.C. § 216(b) allows Plaintiff to bring his claims on behalf of other similarly situated employees.

7. Plaintiff worked as a sales manager and account manager for Defendant at its Spartanburg, South Carolina, 140 McCravy Drive location.

8. Plaintiff brings this suit as a collective action to recover unpaid wages, in part, pursuant to the FLSA, 29 U.S.C. § 201 *et seq.*

9. In particular, Plaintiff brings this suit on behalf of the following similarly situated persons:

All current and former employees who have worked for Defendant and its locations in the capacity of sales manager and account manager within the statutory period covered by this Complaint, and who elect to opt-in to this action pursuant to the FLSA ("Collective Class").

10. In addition, Plaintiff also brings this action as a state class action to recover unpaid wages pursuant to the SCPWA.

11. At all relevant times, Plaintiff and other members of the Collective Class have been similarly situated, completing substantially similar job duties.

12. Defendant willfully committed widespread violations of the FLSA and/or the SCPWA by engaging in a pervasive pattern and practice of failing to pay its employees overtime pay.

13. Defendant willfully manipulated the Collective Class's hours worked and recorded. Among other things, Defendant willfully forced the Collective Class's hours to a lesser number of hours than those actually worked and recorded by the Collective Class; for example, 54 hours worked and recorded by employee(s) being decreased to 50 hours by Defendant; 50 hours worked

and recorded by employee(s) being decreased to 45 hours by Defendant; 45 hours worked and recorded by employee(s) being decreased to 40 hours by Defendant. Also, on occasion, Defendant deducted an hour for lunch even if that hour was worked by the employee(s).

14. As a result, the Collective Class was not paid for certain hours worked over 40 hours per week at the legally mandated one and a half times the hourly rate.

15. Defendant has failed to calculate properly and/or intentionally miscalculated hours over 40 per week that the Collective Class worked, to avoid paying overtime.

16. Plaintiff and other similarly situated employees were not exempt from the overtime requirements of the FLSA, as they did not perform executive, administrative, professional or other duties as required for employees to be exempt from the FLSA.

17. Defendant's actions were intentional and willful, were not in good faith, and were not based on a reasonable belief it was not violating the law.

#### **CLASS CERTIFICATION**

18. Hill, on his behalf and on behalf of similarly situated employees, incorporates herein all allegations in this Complaint.

19. Defendant has locations with multiple similarly situated employees all over the country.

20. The class proposed by Hill is so numerous that joinder of all the members is impracticable.

21. The amount in controversy likely exceeds \$100 per member of the class.

22. The class of similarly situated employees share common questions of fact, as Defendant manipulated the class members' time records and failed to pay the class members wages due and overtime pay for hours over 40 each week.

23. The same questions of law regarding Defendant's Fair Labor Standards Act and South Carolina Wage Payment Act violations apply to all members of the class.

24. The claims and defenses asserted in this action will be typical to all members of the class.

25. The representatives of the class will fairly and adequately protect the interests of the class.

26. Questions of law and fact which are common to the class predominate over questions affecting only individual members, such that a class action is the best method to fairly and efficiently decide this matter.

27. Prosecuting separate actions on behalf of the class members would lead to various cases in various jurisdictions proceeding at the same time and may establish different standards of conduct for Defendant.

28. Adjudicating one class member's rights without allowing the others representation would prejudice the other class members' rights.

29. Defendant has acted in a similar manner regarding all class members such that one order will offer relief to the class as a whole.

**FOR A FIRST CAUSE OF ACTION**

(Violation of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* - Failure to Pay Overtime)

30. Hill, on his behalf and on behalf of similarly situated employees, incorporates herein all allegations in this Complaint.

31. At all relevant times, Defendant had gross revenues of \$500,000 per year or more.

32. At all relevant times, Defendant has been an employer engaged in interstate commerce within the meaning of the FLSA.

33. Defendant employed Plaintiff and the similarly situated Collective Class members at all relevant times.

34. Defendant failed to pay Plaintiff and similarly situated Collective Class members overtime pay for hours worked over 40 hours per week as required by the FLSA.

35. Defendant's actions were willful under 29 U.S.C. § 216.

36. Defendant's wrongful actions have caused Plaintiff and similarly situated Collective Class members damages.

37. Under the FLSA, Plaintiff and similarly situated Collective Class members are entitled to recover from Defendant compensation for unpaid overtime wages, an additional equal amount of liquidated damages, costs of this action and reasonable attorney's fees.

**FOR A SECOND CAUSE OF ACTION**  
(Violation of the South Carolina Wage Payment Act,  
S.C. Code § 41-10-10- Failure to Pay Wages)

38. Hill, on his behalf and on behalf of similarly situated employees, incorporates herein all allegations in this Complaint.

39. Defendant employed Plaintiff and the similarly situated Collective Class members at all relevant times.

40. Defendant failed to pay Plaintiff and similarly situated Collective Class members straight time pay for some hours worked and recorded by employee(s), even when the time was worked by the employee(s), when Defendant intentionally changed employees' hours recorded.

41. Defendant's wrongful actions have caused Plaintiff and similarly situated Collective Class members damages.

42. Under the South Carolina Wage Payment Act, Plaintiff and similarly situated Collective Class members are entitled to be compensated for unpaid wages, plus treble damages, costs of this action and reasonable attorney's fees.

Wherefore, having set forth his Complaint and that of similarly situated Collective Class members, Hill prays that he and similarly situated Collective Class members receive the following relief:

A. That this action be declared a collective action on behalf of the Collective Class, and that notice to class members of the pending action be issued promptly, allowing those class members to file individual Consents to Sue;

B. Designation of the action as a class action under Fed. R. Civ. P. 23 on behalf of the Collective Class;

C. Appointment of the undersigned as Class Counsel;

D. Find that Defendant has violated the FLSA by failing to pay overtime to the Collective Class members;

E. Find that Defendant willfully violated the FLSA;

F. Find that Defendant violated the South Carolina Wage Payment Act;

G. An award of unpaid overtime wages to Plaintiff and Collective Class members;

H. An award of liquidated damages to Plaintiff and Collective Class members;

I. An award of treble damages to Plaintiff and Collective Class members;

J. An award of costs and expenses of this action together with reasonable attorneys' fees; and

K. Such other and further relief as the Court deems just, equitable and proper.

Respectfully submitted,

TALLEY LAW FIRM, P.A.

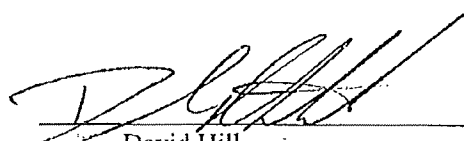
/s/Scott F. Talley  
Scott F. Talley  
Shannon M. Phillips  
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864-595-2966  
Attorneys for Plaintiff

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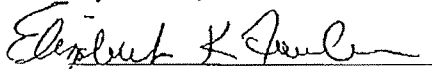
STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )

**VERIFICATION**

Personally appeared before me David Hill, who, being by me first duly sworn, states that he is a Plaintiff in the foregoing action; that he has read the foregoing Complaint; that he has knowledge of the facts set forth herein and that the statements contained therein are true to the best of his knowledge except as to those stated to be based upon information and belief, as to which, he believes such matters to be true.

  
David Hill

SWORN to before me this 1<sup>st</sup>  
day of June, 2018.

 (SEAL)  
Notary Public for South Carolina  
My commission expires: 10-04-2020



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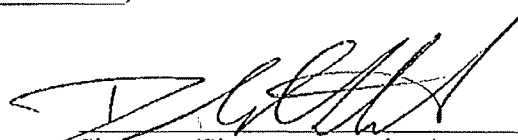
EXHIBIT A

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	
	)	
David Hill, individually and on	)	
behalf of all others similarly	)	Civil Action No. 18-CP-42-
situated,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	<b>CONSENT TO BE A PARTY TO A</b>
	)	<b>COLLECTIVE ACTION PURSUANT TO</b>
Aaron's, Inc.,	)	<b>29 U.S.C. § 216</b>
	)	<b>(JURY TRIAL DEMANDED)</b>
Defendant.	)	

I consent and agree to pursue my claims for unpaid wages and overtime through the lawsuit filed against the above named Defendant.

By my signature below, I authorize the filing and prosecution, in my name and in the name of others similarly situated, of the above captioned action, which asserts violations of the Fair Labor Standards Act and South Carolina Wage Payment Act by the Defendant.

Effective this 1<sup>st</sup> day of June, 2018.

  
Signature (Sign your name here)

David R. Hill  
Printed Name (Print your name here)

CERTIFIED MAIL



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