

IN UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

CASE NO.: 2:23-cv-00388

JASON MARTIN,

Plaintiff,

v.

UPPER CAPTIVA FIRE PROTECTION  
& RESCUE SERVICE DISTRICT,

Defendant.

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**DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES AND DEMAND  
FOR JURY TRIAL**

COMES NOW Defendant, UPPER CAPTIVA FIRE PROTECTION & RESCUE SERVICE DISTRICT (hereinafter "Defendant"), by and through the undersigned counsel, hereby files this Answer and Affirmative Defenses to Plaintiff, JASON MARTIN's (hereinafter "Plaintiff"), Complaint.

**CAUSES OF ACTION**

1. Defendant admits that this Court has jurisdiction over this action brought under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et. seq.* ("FLSA"). Defendant denies any violation of the FLSA giving rise to Plaintiff's claims.

## **PARTIES**

2. Upon information and belief, Defendant admits, for jurisdictional purposes only, the allegations in paragraph 2 of the Complaint.

3. Defendant admits, for jurisdictional purposes only, the allegations in paragraph 3 of the Complaint.

## **JURISDICTION AND VENUE**

4. Defendant admits that this Court has jurisdiction over this action brought under 28 U.S.C. § 1331 and 29 U.S.C. § 216(b). Defendant denies any violation of the FLSA giving rise to Plaintiff's claims.

5. Defendant admits that venue is proper in the United States District Court for the Middle District of Florida. Defendant denies any violation of the FLSA giving rise to Plaintiff's claims.

6. Defendant admits that venue is proper in the Fort Myers Division under Local Rule 1.04 as Plaintiff allegedly resides in Lee County and Defendant is located in and conducts business in Lee County. Both parties fall within the jurisdiction of the Fort Myers Division of the United States District Court for the Middle District of Florida. Defendant denies any violation of the FLSA giving rise to Plaintiff's claims.

## **GENERAL ALLEGATIONS**

7. Defendant admits the allegations in paragraph 7 of the Complaint.

8. Defendant admits the allegations in paragraph 8 of the Complaint.

9. Defendant admits the allegations in paragraph 9 of the Complaint.

10. Defendant admits that Plaintiff was contractually required to maintain his certifications as a firefighter and paramedic. Defendant denies the remaining allegations in paragraph 10 of the Complaint.

11. Defendant denies the allegations in paragraph 11 of the Complaint.

12. Defendant denies the allegations in paragraph 12 of the Complaint.

13. Defendant admits the allegations in paragraph 13 of the Complaint.

However, “normal office hours” would have been 24-30 hours “worked” per week (8 hours/day x 3.5 days/week) plus remainder as meal, sleep and wait times that normally wouldn’t be compensable for an Executive, such as Plaintiff.

14. Defendant admits the allegations in paragraph 14 of the Complaint.

However, “normal office hours” would have been 24-30 hours “worked” per week (8 hours/day x 3.5 days/week) plus remainder as meal, sleep and wait times that normally wouldn’t be compensable for an Executive, such as Plaintiff.

15. Defendant denies the allegations in paragraph 15 of the Complaint.

16. Defendant denies the allegations in paragraph 16 of the Complaint.

### COUNT I

*(Failure to Pay Overtime Wages in violation of the FLSA, 29 U.S.C. Section 207)*

17. Defendant realleges and reincorporates the responses in paragraphs 1 through 16 as if fully set forth herein.

18. Defendant denies the allegations in paragraph 18 of the Complaint.

19. Defendant denies the allegations in paragraph 19 of the Complaint.

20. Defendant admits the allegations in paragraph 20 of the Complaint.

21. Defendant denies the allegations in paragraph 21 of the Complaint.

22. Defendant denies the allegations in paragraph 22 of the Complaint.

23. Defendant denies the allegations in paragraph 23 of the Complaint.

24. Defendant denies the allegations in paragraph 24 of the Complaint.

Defendant denies Plaintiff is entitled to any of the relief requested in the “WHEREFORE” clause in the unnumbered paragraph immediately following paragraph 24 of the Complaint, and therefore denies these allegations.

**DEMAND FOR JURY TRIAL**

Defendant demands trial by jury of all issues by right so triable.

**GENERAL DENIAL**

To the extent not expressly admitted herein, the allegations in Plaintiff’s Complaint are hereby denied.

## **DEFENSES AND AFFIRMATIVE DEFENSES**

Defendant asserts the following defenses, without prejudice to its rights to argue that Plaintiff bears the burden of proof regarding some or all of these defenses:

### **FIRST AFFIRMATIVE DEFENSE**

The claims in Plaintiff's Complaint are barred, in whole or in part, as they fail to state a claim upon which relief can be granted. Plaintiff was an exempt employee under the FLSA under the executive exception 29 C.F.R. § 541.100(a). As Chief of Upper Captiva Fire Protection & Rescue Service District: ("UCFRD") 1) Plaintiff was compensated on a salary basis at a rate of at least \$684 per week, 2) Plaintiff's primary duty was management of UCFRD, 3) Plaintiff customarily and regularly directed the work of two or more other employees, and 4) Plaintiff had the authority to hire and fire other employees.

### **SECOND AFFIRMATIVE DEFENSE**

Plaintiff was an exempt employee under the FLSA under the administrative exception 29 C.F.R. § 541.200(a). As Chief of UCFRD: 1) Plaintiff was compensated on a salary basis at a rate of at least \$684 per week, 2) Plaintiff's primary duty was the performance of office or non-manual work directly related to the management or general business operations of UCFRD, and 3) Plaintiff's primary duty included

the exercise of discretion and independent judgment with respect to matters of significance.

### **THIRD AFFIRMATIVE DEFENSE**

Plaintiff was an exempt employee under the FLSA under the managerial exception 29 C.F.R. § 541.102. As Chief of UCFRD: 1) Plaintiff's primary duties was management, which is defined as "activities such as interviewing, selecting, and training of employees; setting and adjusting their rates of pay and hours of work; directing the work of employees; maintaining production or sales records for use in supervision or control; appraising employees' productivity and efficiency for the purpose of recommending promotions or other changes in status; handling employee complaints and grievances; disciplining employees; planning the work; determining the techniques to be used; apportioning the work among the employees; determining the type of materials, supplies, machinery, equipment or tools to be used or merchandise to be bought, stocked and sold; controlling the flow and distribution of materials or merchandise and supplies; providing for the safety and security of the employees or the property; planning and controlling the budget; and monitoring or implementing legal compliance measures."

**FOURTH AFFIRMATIVE DEFENSE**

Plaintiff was “exempt” from the FLSA at all times relevant hereto based on the law and regulations on exemptions from the FLSA and is not entitled to any overtime as an exempt employee.

**FIFTH AFFIRMATIVE DEFENSE**

Any of Defendant’s actions and decisions regarding Plaintiff’s employment and compensation were made in good faith and in reliance on administrative regulations, orders, rulings or interpretations.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiff’s claims are barred, in whole or in part, to the extent he has failed to comply with contractual procedures and/or condition(s) precedent as set forth in his employment contract with Defendant. Plaintiff was required to give two-months-notice of his resignation from UCFRD but failed to do so.

**SEVENTH AFFIRMATIVE DEFENSE**

All employment actions taken regarding Plaintiff were reasonable, undertaken based on a good faith belief that the actions were in compliance with the law, and were without willfulness, malice, or reckless disregard of the law.

**EIGHTH AFFIRMATIVE DEFENSE**

Defendant did not willfully violate the FLSA. Defendant acted in good faith, reliance upon, and in conformity with, official written administrative

recommendations, rulings, approvals, administrative interpretations, practices and/or enforcement policies and procedures of the United States Department of Labor, Wage, and Hour Division, and in fact possessed a reasonable, good faith belief that any acts or omissions were not in violation of the FLSA, and therefore, any relief is barred, in whole or in part, and liquidated damages should not be permitted.

#### **NINTH AFFIRMATIVE DEFENSE**

Plaintiff's claim for damages is barred by the doctrine of laches in that Plaintiff continued to work continuously until the conclusion of his employment without ever asserting, claiming, or otherwise bringing to the attention of Defendant any alleged violations of the FLSA and his alleged entitlement to compensation.

#### **TENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred, in whole or in part, as during all times material, the UCFRD Administrative Policies clearly and unambiguously provided, "the Chief and Assistant Chief are exempt supervisory/management positions." Further, Plaintiff's 2022-2023 employment agreement with Defendant clearly and unambiguously provided, "[t]he parties agree that Chief Martin's employment position is exempt from the FLSA regarding the payment of overtime," which



Plaintiff understood and agreed to given his execution of said employment agreement.

**ELEVENTH AFFIRMATIVE DEFENSE**

To the extent Plaintiff worked any overtime, he was paid properly by Defendant for same.

**TWELFTH AFFIRMATIVE DEFENSE**

Plaintiff is not entitled to recover damages, as any amounts allegedly owed to Plaintiff were paid, compromised or settled on terms mutually agreeable to the parties. Plaintiff was properly paid for all hours worked at all times.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Defendant asserts that if Defendant prevails in this matter, Defendant should be awarded its reasonable attorneys' fees and costs incurred as a result of defending this action, based on the prevailing party attorney's fees and costs language in the statutes Plaintiff brought the causes of action under, and because Plaintiff's allegations are wholly without merit and rise to the level of frivolous and vexations claims.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Plaintiff was exempt from minimum wage and overtime pay provided by Section 13(a)(1) of the FLSA. Specifically, UCFRD hired Plaintiff as a Fire Chief in furtherance of complying with Florida Statutes Section 191.008(2). Plaintiff was

aware of this designation as Chief of the District at the time he began employment and throughout his employment with UCFRD, not as a “firefighter” as defined in Florida Statutes Section 112.191(1)(b).

**RESERVATION OF RIGHTS**

Defendant reserves the right to bring any additional affirmative defenses that become known during the litigation of this matter.

Dated this 27<sup>th</sup> day of July 2023.

Respectfully submitted,

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