

**ORIGINAL**

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NOV 05 2009

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

JAMES N. HATTEN, Clerk  
By: *[Signature]*  
Deputy Clerk

Margaret Marsh, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
Baudino Law Group, PLC & )  
Kenneth B. Hodges, III, )  
 )  
Defendants. )

CIVIL ACTION FILE

NO.

**1 : 09 - CV - 3104**

JURY TRIAL DEMANDED

**-MHS**

**COMPLAINT**

COMES NOW Plaintiff Margaret Marsh (hereinafter sometimes "Plaintiff"), and files this lawsuit against Defendants Baudino Law Group, PLC (hereinafter sometimes "BLG") and Kenneth B. Hodges, III (hereinafter sometimes "Hodges"), and shows the following:

**I. Nature of Complaint**

1.

Plaintiff brings this action to obtain full and complete relief and to redress the unlawful employment practices described herein.

2.

This action seeks declaratory and injunctive relief, liquidated and actual

damages for Defendants' failure to pay federally mandated overtime wages to Plaintiff in violation of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §201 *et seq.* (hereinafter "FLSA") during the period of Marsh's employment with Defendants, December 1, 2007 until May 21, 2009.

## **II. Jurisdiction and Venue**

3.

The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1337, 1367 and 29 U.S.C. § 216(b).

4.

Defendant BLG is a foreign corporation doing business in the State of Georgia, and the unlawful employment practices described herein occurred at 1201 Peachtree Street, Suite 2020, Atlanta, Georgia 30361. Defendant Hodges is a resident of this judicial district. Accordingly, venue in this Court is proper pursuant to 28 U.S.C § 1391(b)(2).

## **III. Parties and Facts**

5.

Plaintiff is a resident of the State of Georgia and began working for Defendants in 2007. Marsh was an "employee" (as defined under FLSA

§3(e), 29 U.S.C. §203(e)) for Defendants. Plaintiff performed non-exempt labor for the Defendants during her employment.

6.

Marsh was not paid the overtime wage differential required by FLSA §7, 29 U.S.C. §207 during her employment when she worked over forty (40) hours in a workweek.

7.

BLG is a private employer engaged in interstate commerce, and its gross revenues exceed \$500,000 per year. Defendant BLG, is an “employer” within the definition of FLSA §3(d), 29 U.S.C. §203(e) and governed by and subject to FLSA §7, 29 U.S.C. §204 and §207.

Defendant Hodges is Managing Partner of the Atlanta office of BLG. As Managing Partner of the Atlanta office of BLG during part of Plaintiff’s employment, Hodges controlled the day to day operations and was aware that Plaintiff was working overtime, and therefore is an employer for purposes of FLSA liability.

**Count I - Violation of the overtime wage requirement  
of the Fair Labor Standards Act.**

8.

Plaintiff realleges and incorporates herein all preceding paragraphs of this Complaint.

9.

Defendants have violated FLSA §7, 29 U.S.C. §207, by failing to pay overtime wages for time that Plaintiff worked in excess of forty (40) hours in a workweek during her period of employment.

10.

Pursuant to FLSA §16, 29 U.S.C. §216, Plaintiff brings this lawsuit to recover her overtime wage differential, liquidated damages in an equal amount, attorney's fees, and the costs of this litigation.

11.

Throughout the period of employment of Marsh with Defendants, they knowingly, intentionally and willfully violated the FLSA by failing to pay Plaintiff the overtime compensation to which she was entitled.

12.

Defendants “knew or showed reckless disregard” that its conduct violated overtime laws under the FLSA.

13.

Defendants failed to act in good faith and had no reasonable grounds for believing they were not violating the FLSA.

**PRAYER FOR RELIEF**

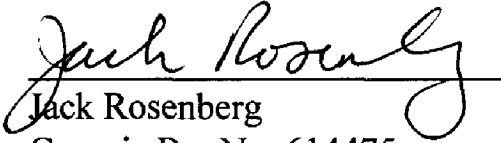
**WHEREFORE**, Plaintiff respectfully requests that this Court:

- a. Require Defendants to pay Plaintiff damages for unpaid overtime compensation calculated at one and one-half times the proper normal rate that Plaintiff would have received but for unlawful conduct going back until December 1, 2007;
- b. Require Defendants to pay Plaintiff liquidated damages as provided for under the FLSA;
- c. Issue a declaratory judgment that Defendants have engaged in unlawful employment practices in violation of the FLSA with respect to Plaintiff;
- d. Award Plaintiff her reasonable attorney's fees and costs and

expenses of suit arising from Defendants' violations under the  
FLSA;

- e. Provide such other and further relief as the Court may deem just  
and proper.

Respectfully submitted this 5th day of November, 2009.

  
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