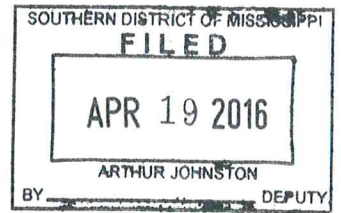


**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**



**Melvin Tillis, Nicholas Boykin, Teona
Rockingham, and all similarly situated persons**

PLAINTIFFS

v.

No. 3:16-cv-287 HTW-LRA

**Southern Floor Covering, Inc., Jeff Matthews,
Steven Keith d/b/a Steven Keith's Floor Covering,
and John Does 1-10.**

DEFENDANTS

(JURY TRIAL DEMANDED)

COMPLAINT

This is a collective action under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, brought by carpet installers and apprentices against Defendants. Defendants have paid non-exempt employees an improper "salary," have misclassified employees, have failed to track or compensate for hours worked, and have violated minimum wage and overtime. In support thereof, COME NOW THE PLAINTIFFS, on behalf of themselves and all others similarly situated, by and through their attorney, and allege as follows:

JURISDICTION, VENUE, JURY TRIAL

1. Jurisdiction is proper in this court under 28 U.S.C. § 1331 because this claim arises under the FLSA, 29 U.S.C. § 216.
2. Venue is proper in this court under 28 U.S.C. § 1391 because the work is based out of Pearl, Mississippi.
3. Plaintiff hereby demands trial by jury on all issues so triable.

PARTIES

4. Named Plaintiffs Melvin Tillis, Nicholas Boykin, and Teona Rockingham are all adult residents of Mississippi, and carpet installers/apprentice carpet installers recently employed by Defendants at their location in Pearl, Mississippi.
5. Named Plaintiffs are representative of the collective group of "carpet installers" defined as "all persons who worked as 'carpet installers' or 'apprentice carpet installers' for Southern Floor Covering, Inc., Steven Keith's Floor Covering, and/or all related entities and people, at any time between three years prior to the filing of this Complaint and the entry of judgment in this case." The term "Plaintiffs" is used herein to refer to the group of both named and class plaintiffs
6. Defendant Southern Floor Covering, Inc., is a Mississippi corporation operating a carpet installation business.
7. Southern Floor Covering, Inc., has its principal place of business at 5010 Hwy 80E, Pearl, MS 39208.
8. Southern Floor Covering Inc., can be served through its registered agent, Carolyn P. Presley, who has listed her address for service as "705 Red Oak Rd., PO Box 5383, Brandon, MS 39047."
9. Defendant Jeff Matthews is an officer of Southern Floor Covering, Inc., and responsible for its day-to-day operations, including all policies and practices at issue here.

10. Defendant Steven Keith is doing business as "Steven Keith's Floor Covering."
11. Steven Keith has its principal place of business at 720 Old Hwy 49S, Richland MS 39218.
12. Defendants John Does 1-10 are persons or entities unknown who are either joint employers, alter egos, integrated enterprises, or are otherwise statutory employers coordinating in any fashion with the named Defendants, in the employment of one or more of the named Plaintiffs and/or any member of the class of similarly situated persons. As the identity of such persons becomes known, this Complaint will be amended to add them by name.

COVERAGE/INTERSTATE COMMERCE

13. Defendant Southern Floor Covering, Inc., is subject to "enterprise" coverage under the FLSA.
14. Defendant Southern Floor Covering, Inc., has over \$500,000 per year in gross receipts.
15. Defendant Steven Keith is subject to "enterprise" coverage under the FLSA.
16. Defendant Steven Keith has over \$500,000 per year in gross receipts.
17. In the alternative, Plaintiffs have worked in interstate commerce covered by the FLSA in every work week at issue.
18. Plaintiffs routinely travel in company vans from the company warehouse(s) in Mississippi, to install carpets in other states, such as Tennessee and Louisiana.

19. The Defendants routinely assign Plaintiffs work which is paid for by foreign and inter-state corporations organized under the laws of states such as Delaware and Louisiana.
20. The carpeting handled and installed by Plaintiffs is in interstate commerce, and delivered to Defendants' Mississippi warehouse(s) from outside of Mississippi.
21. The vans purchased by Defendants and driven by Plaintiffs originate from out of state, and travel in interstate commerce and on interstate highways.

WORK AND PAY POLICIES

22. Plaintiffs are blue collar workers installing carpets and other forms of flooring.
23. Plaintiffs generally work in pairs, with one lead installer referred to as the "installer," and a second installer doing the same kind of work and referred to as an "apprentice installer."
24. Defendants assign all the work, provide specific instructions for performing the work, and supervise and evaluate the job performance of the Defendants to determine continued employment or promotional opportunities.
25. Defendants provide all of the tools and materials needed to do the work. This includes investments in vehicles, gasoline, forklifts, warehousing space, and inventory of flooring materials. Plaintiffs make no capital investment.
26. Defendants market themselves to apartment management companies and other potential clients, directly controlling the flow of business and the determinants of

profit and loss.

27. Installers need not have any particular skill, license, training, background, or personal initiative in order to perform the work. Defendants have successfully assigned the work to temp workers and forklift operators with no prior experience.
28. The relationship between Plaintiffs and Defendants is of a permanent nature, with employment frequently lasting for many months and years.
29. The work day begins on or about 6 or 7 am, when Plaintiffs arrive at the Defendants' warehouses.
30. Plaintiffs begin work by getting their assignments and instructions for the day.
31. Plaintiffs are instructed on the material needed for the work, the location of the work, and other matters given by the Defendants.
32. Plaintiffs then find the materials they will need in the Defendants warehouses, and load that material onto company vans to take to the location where flooring is needed.
33. The location of assignments varies, but can be hundreds of miles away, in cities like Memphis, Shreveport, or New Orleans.
34. The Plaintiffs drive the vans with materials to the location in need of flooring.
35. The Plaintiffs then, as necessary, remove furniture and fixtures from the location.
36. The Plaintiffs then remove any existing flooring that needs to be removed, and

install the new flooring.

37. Plaintiffs then call Defendants to inform them of the completion of the job.
38. Defendants may then assign a new job, at which time Plaintiffs drive back to the warehouse to pick up additional supplies, and drive out to the next job.
39. Plaintiffs generally work into the late evening or the night.
40. After the last job of the day is finished, Plaintiffs must drive back to the warehouse(s) to return the van to the lot, empty the van of tools and unused supplies, and, as applicable, close up the worksite.
41. Plaintiffs work day may end as late as 12 am or 1 am.
42. From start to finish, Plaintiffs work up to 18 hours in a day.
43. Plaintiffs generally work five or six days per week.
44. Defendants do not track hours worked.
45. Pay stubs issued by Defendant Southern Floor Covering, Inc., indicate that at least some Plaintiff installers are paid a "salary" of \$500 a week.
46. No hourly pay or overtime is paid to Plaintiffs.
47. Defendant Southern Floor Covering, Inc., issues form W-2s to Plaintiffs reflecting this salary pay and nothing else.
48. Defendant Steven Keith pays Plaintiffs in the same essential manner as Southern Floor Covering, Inc., for the same kind of work performed in the same way, but instead issues form 1099s to Plaintiffs.

CAUSES OF ACTION

COUNT 1: Fair Labor Standards Act violations

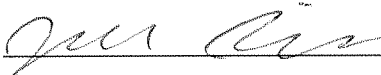
49. Plaintiffs incorporate all allegations set forth in all other sections of this complaint.
50. Plaintiffs are employees protected by the minimum wage and overtime provisions of the FLSA.
51. The Plaintiffs are entitled to be compensated at a rate of at least \$7.25 for every hour worked under 29 U.S.C. § 206.
52. Under 29 U.S.C. § 207, overtime of one and one-half times the regular rate must be paid for hours worked in excess of 40 in a given work week.
53. Defendants failed to pay minimum wages and overtime as required by the FLSA.
54. Defendants misclassified Plaintiffs as either exempt from the FLSA, or independent contractors, when they are neither under well established law.
55. Defendants' violations were willful within the meaning of 29 U.S.C. § 255.
56. Plaintiffs seek the full remedies provided by 29 U.S.C. § 216, including damages in the amount of their unpaid wages, liquidated damages, interest as applicable, and such other legal and equitable relief as may be proper.
57. Plaintiffs seek recovery of attorney's fees and costs under 29 U.S.C. § 216 and other applicable provisions of law and equity.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, pray for judgment against Defendants as follows:

- a. Designate this action as a collective FLSA action;
- b. Promptly issue notice pursuant to 29 U.S.C. § 216 to all similarly situated persons, apprising them of this action and providing individual consent forms;
- c. Give leave to add additional plaintiffs or claims as necessary;
- d. Find that the Plaintiffs and their class members are “employees” under the FLSA;
- e. Find that the Plaintiffs and their class members are covered and not exempt from the FLSA's minimum wage and overtime provisions;
- f. Find that the practices of Defendants described herein violate the FLSA;
- g. Find that the aforesaid violations are willful;
- h. Enter judgment against Defendants for an amount equal to the amount of unpaid wages and unlawfully taken tips;
- i. Enter judgment against Defendants for liquidated damages in an additional equal amount as prescribed by statute;
- j. Award interest, costs, and attorney's fees; and
- k. Award all other relief available under the FLSA or otherwise.

The foregoing Complaint is respectfully submitted on behalf of Plaintiffs and all similarly situated persons by and through counsel:

 Date: 4-14-16

Joel Dillard
JOEL F. DILLARD, PA
405 Tombigbee St.
Jackson, MS 39201
Ph: 601-487-7369
Fax: 601-487-1110
Email: joel@joeldillard.com
M.S. Bar No. 104202
Counsel for Plaintiffs