

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

JENNIFER M. NOVAK,

Plaintiff,

v.

**CELLETEX THERAPEUTICS
CORPORATION,**

Defendant.

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Civil Action No. 1:12-cv-00548

PLAINTIFF’S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF THIS COURT:

Plaintiff Jennifer M. Novak (“Novak”) files her Original Complaint, complaining of Celltex Therapeutics Corporation (“Celltex”), and for cause of action respectfully shows the Court the following:

Introduction

1. This action seeks actual damages, liquidated damages, attorney’s fees, expert witness fees, taxable costs of court, and pre-judgment and post-judgment interest as allowed by law for Defendant Celltex’s failure to pay Plaintiff overtime for hours worked in excess of forty hours a week, in violation of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. (“FLSA”).

2. Plaintiff demands a jury trial on all issues triable to a jury.

Parties

3. Plaintiff is an individual who resides in Harris County, Texas.

4. Defendant Celltex Therapeutics Corporation is a Texas corporation that maintains its principal place of business at 5701 Woodway Drive, Suite 300, Houston, Texas 77057 and

may be served through its registered agent, Grant Cook, 5701 Woodway Drive, Suite 300, Houston, Texas 77057.

5. Defendant Celltex is the former employer of Plaintiff.

6. Defendant Celltex is an enterprise engaged in commerce or the production of goods for commerce within the meaning of the FLSA, and is obligated to pay its employees in accordance with the FLSA. Defendant Celltex was obligated to pay its employees in accordance with the FLSA at all times Plaintiff worked for Celltex.

Jurisdiction and Venue

7. This Court has jurisdiction over all claims in this matter pursuant to 28 U.S.C. § 1331 because Plaintiff's claims arise under federal law.

8. Venue is proper in the Western District of Texas pursuant to agreement of the parties.

9. All conditions precedent to filing this lawsuit have been met.

Facts

10. Plaintiff was paid a salary despite having primary functions that did not qualify for any exemption under the FLSA.

11. In her position with Defendant Celltex, Plaintiff routinely worked in excess of 40 hours a week. In many instances, Plaintiff worked in excess of 55 hours per week.

12. Plaintiff was a non-exempt employee entitled to overtime pursuant to the FLSA. However, Defendant Celltex failed to pay Plaintiff overtime for any hours worked in excess of forty hours per week.

13. Defendant Celltex knew or showed reckless disregard for whether its failure to pay Plaintiff overtime for hours worked in excess of 40 hours a week was in violation of the FLSA.

Causes of Action

14. Plaintiff incorporates by reference all of the foregoing allegations in each of the paragraphs above as if fully set forth herein.

15. Defendant Celltex's conduct and practices violated the provisions of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., including but not limited to violations of § 207(a)(1).

16. Defendant's violations of the FLSA were willful violations.

Attorney's Fees

17. Plaintiff incorporates by reference all of the foregoing allegations in each of the paragraphs above as if fully set forth herein.

18. Plaintiff is entitled to attorney's fees and costs for bringing this action pursuant to 29 U.S.C. § 216(b).

Damages

19. As a result of Defendant's conduct, Plaintiff seeks relief pursuant to 29 U.S.C. § 216(b) which includes, but is not limited to, (i) overtime wages for all unpaid hours worked in excess of forty hours per week at the rate of one and one-half times her regular rate; (ii) liquidated damages as allowed by law; (iii) costs, expert witness fees and attorney's fees; (iv) pre-judgment and post-judgment interest as allowed by law; and (v) such other relief, legal or equitable, as may be warranted or to which Plaintiff may be justly entitled.

Jury Demand

20. Plaintiff requests a trial by jury.

Prayer

21. WHEREFORE, Plaintiff Jennifer M. Novak respectfully prays that upon final hearing and trial hereof, this Court finds for Plaintiff and awards her:

- a. Overtime wages for all unpaid hours worked in excess of forty hours at the rate of one and one-half times her regular rate;
- b. An equal amount of overtime wages awarded as liquidated damages as allowed under the FLSA;
- c. Attorney's fees for this case and any and all appeals;
- d. Pre-judgment and post-judgment interest as allowed by law;
- e. Costs of court and other costs of prosecuting Plaintiff's claims;
- f. Expert witness fees; and
- g. Such other relief, legal or equitable, as Plaintiff may be justly entitled.

Respectfully Submitted,

WEISBART SPRINGER HAYES, LLP

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512.652.5780

512.682.2074 fax

By: /s/ Sherrard (Butch) Hayes

Sherrard (Butch) Hayes

State Bar No. 00784232

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ATTORNEYS FOR PLAINTIFF

CIVIL COVER SHEET

The JS 44 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, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

ennifer M. Novak

(b) County of Residence of First Listed Plaintiff Harris (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number) herrard (Butch) Hayes /eisbart Springer Hayes, LLP 12 Lavaca Street, Suite 200, Austin, TX 78701 - 512.652.5780

DEFENDANTS

Celltex Therapeutics Corporation

County of Residence of First Listed Defendant Harris (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known) Grant Cook The Cook Law Firm 5701 Woodway, Suite 330, Houston, TX 77057 - 713.552.0700

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff 2 U.S. Government Defendant 3 Federal Question (U.S. Government Not a Party) 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)

- Citizen of This State PTF DEF X 1 1 Incorporated or Principal Place of Business In This State Citizen of Another State PTF DEF 2 2 Incorporated and Principal Place of Business In Another State Citizen or Subject of a Foreign Country PTF DEF 3 3 Foreign Nation PTF DEF 4 4 5 5 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes categories like Insurance, Personal Injury, Real Property, Labor, etc.

V. 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) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

29 U.S.C. Section 201

Brief description of cause:

Fair Labor Standards Act Claim

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMANDS

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE

06/22/2012

SIGNATURE OF ATTORNEY OF RECORD

Signature of attorney

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE