

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DISTRICT**

**DANIEL RUDELLE, on his own
behalf and on behalf of those
similarly situated,**

Plaintiffs,

vs.

Case No. 3:14-cv-00873-MMH-MCR

**FLAGLER COUNTY SHERIFF'S
OFFICE and JAMES L. MANFRE
Individually and in his official capacity
as Sheriff of FLAGLER COUNTY
SHERIFF'S OFFICE,**

Defendants.

**AMENDED ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT
JAMES L. MANFRE IN HIS OFFICIAL CAPACITY AS
SHERIFF OF FLAGLER COUNTY SHERIFF'S OFFICE**

Defendant, JAMES L. MANFRE, (in his official capacity) as Sheriff of FLAGLER COUNTY SHERIFF'S OFFICE ("Defendant"), by and through undersigned counsel, hereby serves his Amended Answer and Affirmative Defenses to Plaintiff's Complaint and Demand for Jury Trial.

INTRODUCTION

1. Defendant admits that Plaintiff purports to bring the claims listed in Paragraph 1.
2. Without knowledge, therefore denied.
3. Admitted.
4. Admitted.
5. Without knowledge, therefore denied.

6. The allegations in Paragraph 6 require no answer, but if any answer may be required, denied.

7. Denied.

8. The allegations in Paragraph 8 require no answer, but if any answer may be required, denied.

9. Denied.

PARTIES

10. Defendant admits that Plaintiff Ruddell was an hourly paid deputy sheriff who performed law enforcement services for Defendant. Otherwise denied.

11. Denied.

12. Admitted.

13. Admitted.

14. Defendant admits that James L. Manfre, in his official capacity as the Sheriff of Flagler County, Florida is an employer within the meaning of Section 203(d). Otherwise denied.

15. Defendant admits that Plaintiff Ruddell is an employee within the meaning of Section 203(e). Otherwise denied.

JURISDICTION

16. Defendant admits that this Court has original jurisdiction over Plaintiff's claims. To the extent that Paragraph 15 contains factual allegations, Defendant denies those allegations.

17. Defendant admits that venue is proper.

COVERAGE

18. Defendant admits that James L. Manfre, in his official capacity as the Sheriff of Flagler County, Florida is an enterprise covered by the FLSA. Otherwise denied.

19. Admitted.

20. Admitted.

21. Admitted.

FACTUAL ALLEGATIONS

22. Denied.

23. Denied.

24. Denied.

25. Admitted.

26. Admitted.

27. Denied.

28. Denied.

29. Denied.

30. Denied.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

CLASS ALLEGATIONS

35. The allegations in Paragraph 35 require no answer, but if any answer may be required, denied.

36. The allegations in Paragraph 36 require no answer, but if any answer may be required, denied.

37. Denied.

369811

- 38. Denied.
- 39. Denied.
- 40. Denied.
- 41. Denied.
- 42. Without knowledge, therefore denied.
- 43. Denied.
- 44. Denied.

COUNT I – RECOVERY OF OVERTIME COMPENSATION

- 45. Defendant reincorporates and re-alleges its responses to Paragraphs 1 through 44 above.
- 46. Denied.
- 47. Admitted.
- 48. Denied.
- 49. Denied.
- 50. Denied.
- 51. Denied.

WHEREFORE, Defendant denies that Plaintiff is entitled to judgment and the relief requested.

COUNT II
RECOVERY OF UNPAID WAGES (FLORIDA LAW)

- 52. Defendant reincorporates and re-alleges its responses to Paragraphs 1 through 44 above.
- 53. Admitted.
- 54. Denied.
- 55. Denied.

56. Denied.

57. Denied.

58. Denied.

WHEREFORE, Defendant denies that Plaintiff is entitled to judgment and the relief requested.

JURY DEMAND

Plaintiff's request for a jury trial requires no answer.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a claim upon which relief may be granted.
2. Defendant states that it paid the Plaintiff, and those allegedly similarly situated, consistent with the requirements of the Fair Labor Standards Act.
3. Any alleged violation of the Fair Labor Standards Act by Defendant was not willful and was wholly unintentional.
4. Plaintiff's claims may be barred, in whole or in part, by the applicable statute of limitations.
5. Plaintiff's claims may be barred by the doctrine of qualified immunity.
6. Any failure by Defendant to abide by the FLSA was in good faith and Defendant had reasonable grounds for believing its actions were not in violation of the FLSA. Accordingly, Plaintiff's claims for liquidated damages should be reduced or eliminated.
7. This action cannot be maintained as a collective action as the requirements necessary to obtain certification of a Fair Labor Standards Act collective action under 29 U.S.C. § 216(b) cannot be established. Defendant specifically maintains that Plaintiff's Complaint fails to meet

even the minimal requirements necessary to justify a collective action or issuance of notice pursuant to 29 U.S.C. § 216(b).

Defendant reserves the right to raise any and all other defenses that may become evident during discovery and during any other proceeding in this action.

Dated: October 20, 2014

Respectfully submitted,

s/Mark E. Levitt

Mark E. Levitt
Florida Bar No.: 0193190
Email: mlevitt@anblaw.com
Marc A. Sugerman
Florida Bar No.: 0081876
Email: msugerman@anblaw.com
ALLEN, NORTON & BLUE, P.A.
1477 W. Fairbanks Ave., Suite 100
Winter Park, FL 32789
Telephone: (407) 571-2152
Facsimile: (407) 571-1496
Counsel for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of October 2014, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the following: Kimberly D. Woods, Esq., Morgan & Morgan, P.A., 20 N. Orange Ave., 14th Floor, P.O. Box 4979, Orlando, FL 32802-4979, kwoods@forthepeople.com.

s/Mark E. Levitt

Attorney