

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

JOHN HANIS, individually and on behalf)
of all others similarly situated,)

Plaintiff,)

v.)

Case No. _____

METROPOLITAN LIFE)
INSURANCE COMPANY)

Defendant.)

COMPLAINT

Plaintiff John Hanis worked for MetLife as an insurance underwriter. MetLife classified Hanis as an exempt employee under the Fair Labor Standards Act, meaning that Hanis was not eligible to receive overtime compensation. As alleged herein, MetLife improperly classified Hanis and other insurance underwriters as exempt employees, and the company improperly withheld overtime compensation from Hanis and all other insurance underwriters. Hanis brings this case on behalf of himself and all other MetLife insurance underwriters and seeks unpaid overtime compensation.

In support of his Complaint, Hanis respectfully submits the following:

PARTIES

1. Plaintiff John Hanis is a resident of Riverside, Missouri. MetLife employed Hanis as a senior underwriter from June 2006 to October 2013. Hanis worked at MetLife's location at 4150 North Mulberry Drive, Suite 300, Kansas City, Missouri 64116.

2. Metropolitan Life Insurance Company is a national insurance company with its principal place of business in New York, New York. It may be served via its registered agent at CT Corporation System, 120 South Central Avenue, Clayton, Missouri 63105.

JURISDICTION AND VENUE

3. This Court has original federal question jurisdiction under 28 U.S.C. § 1331 for the claim brought under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 201, *et seq.*

4. This Court has supplemental jurisdiction for the claim asserted under the Missouri Wage Law ("MWL") (codified at Mo. Rev. Stat. §§ 290.500 *et seq.*) in that the claim is asserted as part of the same case and controversy as the FLSA claim, the state and federal claims derive from a common nucleus of operative facts, the state claim will not substantially dominate over the FLSA claim, and exercising supplemental jurisdiction would be in the interests of judicial economy, convenience, fairness, and comity.

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), inasmuch as MetLife has offices, conducts business, and can be found in this judicial district, and the causes of action set forth herein have arisen and occurred in part in this judicial district. Venue is also proper under 29 U.S.C. § 1132(e)(2) because MetLife has substantial business contacts within the State of Missouri.

FACTUAL ALLEGATIONS

6. MetLife is a global provider of insurance, annuities and employee benefit programs.

7. At all relevant times, MetLife has been, and continues to be, an “employer” engaged in interstate “commerce” and/or in the production of “goods” for “commerce” within the meaning of the FLSA, 29 U.S.C. § 203. At all relevant times, MetLife has employed, and/or continues to employ, “employee[s],” including the Plaintiff and all similarly situated employees. At all relevant times, MetLife has had gross operating revenues in excess of \$500,000.00.

8. At all relevant times, MetLife has been, and continues to be, an “employer” as defined by the MWL. At all relevant times, MetLife has employed, and/or continues to employ, “employee[s],” including Plaintiff and all similarly situated employees as defined by the MWL.

9. The primary job of insurance underwriters is to provide internal underwriting services for MetLife.

10. All insurance underwriters are similarly situated in that they, and are all subject to MetLife’s policy and practice that designated and/or treated them as exempt employees. Accordingly, all insurance underwriters perform work without overtime compensation.

11. Because MetLife’s insurance underwriters do not satisfy the criteria for an exempt employee, MetLife should classify them as non-exempt employees, thereby making them eligible for overtime compensation when they work in excess of forty hours per week. In this respect, MetLife’s insurance underwriters are misclassified for compensation purposes.

12. MetLife fails to accurately record the actual time worked by all insurance underwriters. MetLife could easily and accurately record the actual time worked by all insurance underwriters.

13. Instead, upon information and belief, MetLife creates a set schedule for all insurance underwriters, but does not track the actual time worked. For example, Hanis's work schedule was 9:00 a.m. to 5:45 p.m. daily, but he regularly worked longer hours than those hours reflected on his schedule. Upon information and belief, MetLife creates a comparable schedule for all other insurance underwriters, and similarly does not track the actual hours they work.

14. In light of MetLife's failure to accurately record time worked by all insurance underwriters, MetLife fails to provide accurate wage statements to all insurance underwriters.

15. Hanis was an insurance underwriter for MetLife from June 5, 2006 until October 18, 2013.

16. Hanis's standard work schedule during the time of his employment was 9:00 a.m. to 5:45 p.m.

17. Hanis regularly worked during his purported lunch break and ate lunch at his desk.

18. Additionally, Hanis regularly worked in excess of forty hours per week. During the peak seasons (March through June, and August through November), he regularly worked approximately sixty hours per week. During the non-peak seasons, he regularly worked approximately forty-five hours per week.

19. Because MetLife misclassified him as an exempt employee and he worked in excess of forty hours per week, Hanis is entitled to overtime compensation.

20. Upon information and belief, other insurance underwriters employed by MetLife also are entitled to overtime compensation because MetLife misclassified them as exempt employees and they worked in excess of forty hours per week.

21. The same unlawful practices and procedures described above affect all insurance underwriters nationwide, including in the state of Missouri.

COUNT I

Violation of the Fair Labor Standards Act (Brought by Plaintiff and the Proposed Collective Against MetLife)

22. Plaintiff incorporates by reference the foregoing paragraphs of this Complaint.

23. Plaintiff was employed by MetLife as an insurance underwriter from approximately June 2006 through October 2013, and last worked at MetLife's offices located in Kansas City, Missouri.

24. MetLife employs other insurance underwriters at locations throughout the United States.

25. MetLife classifies insurance underwriters as exempt employees under the FLSA. Thus, MetLife does not pay insurance underwriters overtime compensation.

26. But Plaintiff and other insurance underwriters do not perform jobs that would place them under any of the FLSA's exemptions from overtime compensation. In this respect, MetLife misclassifies its insurance underwriters.

27. All insurance underwriters working for MetLife are similarly situated in that they all perform essentially the same respective job functions.

28. All insurance underwriters are similarly situated in that they are all subject to MetLife's same compensation policy, plan, or procedure that requires them to perform work and/or requires them to be present at work without paying them overtime. This denies the insurance underwriters their overtime compensation.

29. MetLife's policy and practice of classifying insurance underwriters as exempt employees and denying them overtime compensation violates the FLSA.

30. Plaintiff brings this Complaint as a collective action pursuant to 29 U.S.C. § 216(b) of the FLSA on behalf of:

All persons nationwide who were, are or will be employed by MetLife as insurance underwriters from December 11, 2011 to the present, plus periods of tolling, who have not been compensated at one and one-half times the regular rate of pay for all services performed in excess of forty hours per week.

31. This claim is being brought and maintained as an "opt-in" collective action pursuant to 29 U.S.C. § 216(b) of the FLSA for all claims asserted by Plaintiff because his claims are similar to the claims of the insurance underwriters.

32. The number and identity of other insurance underwriters yet to opt-in and consent to be party plaintiffs may be determined from MetLife's records, and potential collective members may easily and quickly be notified of the pendency of this action.

33. MetLife failed to compensate Plaintiff and the insurance underwriters at a rate of not less than one and one-half times the regular rate of pay for work performed in excess of forty hours in a work week, and therefore, MetLife has violated, and continues to violate, the FLSA, 29 U.S.C. § 201, *et seq.*, including 29 U.S.C. § 207(a)(1).

34. The foregoing conduct, as alleged herein, constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(a).

35. Plaintiff, on behalf of himself and all similarly situated employees of MetLife, seeks damages in the amount of all respective unpaid overtime compensations at a rate of one and one-half times the regular rate of pay for work performed in excess of forty hours in a work week, plus liquidated damages, as provided by the FLSA, 29 U.S.C. § 216(b), and such other legal and equitable relief as the Court deems just and proper.

36. Plaintiff, on behalf of himself and all similarly situated employees of MetLife who compose the insurance underwriters, seek recovery of all attorneys' fees, costs, and expenses of this action, to be paid by MetLife, as provided by the FLSA, 29 U.S.C. § 216(b).

COUNT II

Violation of the Missouri Wage Law (Brought by Plaintiff and the Proposed Class Against MetLife)

37. Plaintiff incorporates by reference the foregoing paragraphs of this Complaint.

38. Plaintiff has been entitled to the rights, protections, and benefits provided under the MWL, codified at Mo. Rev. Stat. §§ 290.500 *et seq.*

39. Plaintiff brings this claim as a class action under Fed. R. Civ. P. 23 on behalf of:

All persons who were, are or will be employed by MetLife as insurance underwriters in Missouri from December 11, 2012 to the present, plus periods of tolling, who have not been compensated at one and one-half times the regular rate of pay for all services performed in excess of forty hours per week.

40. MetLife was the “employer” of Plaintiff within the meaning of the MWL.

41. Plaintiff was MetLife’s “employee” within the meaning of the MWL.

42. As set forth herein, MetLife illegally classified and/or treated Plaintiff and the Missouri Class as exempt, and thus failed to pay Plaintiff and the Missouri Class the overtime required by Missouri law.

43. Pursuant to the MWL, Plaintiff and the Missouri Class are entitled to be compensated at a rate of not less than one and one-half times the regular rate at which such employees are employed for all work performed in excess of forty (40) hours in a workweek.

44. MetLife, pursuant to its policy and practice, violated the MWL by refusing and failing to pay Plaintiff and the Missouri Class overtime wages required under the MWL.

45. Plaintiff and the Missouri Class are entitled to damages equal to double of all unpaid overtime wages due within two years preceding the filing of this Complaint, plus periods of tolling.

46. Plaintiff and the Missouri Class are entitled to an award of pre-judgment and post-judgment interest at the applicable legal rate.

47. MetLife is liable pursuant to Mo. Rev. Stat. § 290.527 for Plaintiff’s attorneys’ fees and costs/expenses incurred in this action.

48. The MWL claim, if certified for class wide treatment, may be pursued by all similarly situated persons who do not opt-out of the class.

49. Plaintiff and the Missouri Class are all similarly situated in that they were all subject to MetLife’s policy which classified and/or treated them as exempt and thus to not properly

calculate and pay these employees overtime compensation for hours worked in excess of forty hours per work week which violates the MWL.

50. Class certification of this count for violations of the MWL is appropriate under Fed. R. Civ. P. 23(a) in that:

a. The members of the Missouri Class are so numerous that joinder of all members is impracticable. The exact number of class members is unknown to Plaintiff at the present time but the number is anticipated to be in excess of one hundred individuals;

b. There are questions of law and fact arising in this action which are common to Plaintiff and the Missouri Class, including:

- (i) Whether MetLife's policies and practices described within this Complaint were illegal;
- (ii) Whether Plaintiff and the Missouri Class are paid for all of the time they work;
- (iii) Whether MetLife classified and/or treated Plaintiff and the Missouri Class as exempt;
- (iv) Whether MetLife maintains accurate records of the time that Plaintiff and the Missouri Class work;
- (v) Whether MetLife failed to pay appropriate overtime premiums to Plaintiff and the Missouri Class in violation of MWL; and
- (viii) Whether MetLife's actions were willful.

51. Plaintiff's claims are typical of the claims of the Missouri Class. Plaintiff was paid under the same policy and procedure as all members of the Missouri Class. Plaintiff and all

members of the Missouri Class were victims of the same wrongful conduct engaged by MetLife in violation of MWL.

52. Plaintiff will fairly and adequately protect the interests of the members of the class.

53. Plaintiff has retained counsel who are competent and experienced in class action and complex litigation involving compensation claims.

54. Plaintiff has no interests which are adverse to or in conflict with other Missouri Class.

55. Class certification of the respective class is appropriate under Fed. R. Civ. P. 23(b)(3) because questions of law and fact common to class members predominate over any questions affecting only individual members and a class action is the superior procedural vehicle for the fair and efficient adjudication of the claims asserted herein given that: (a) there is minimal interest of members of this class in individually controlling their prosecution of claims under the MWL; (b) it is desirable to concentrate all the litigation of these claims in this forum; and (c) there are no unusual difficulties likely to be encountered in the management of this case as a class action.

56. In the absence of a class action, MetLife would be unjustly enriched because it would be able to retain the benefits and fruits of the wrongful violation of the MWL.

57. The class action mechanism is superior to any alternatives that might exist for the fair and efficient adjudication of this cause of action. Proceeding as a class action would permit the large number of injured parties to prosecute their common claims in a single forum simultaneously, efficiently, and without unnecessary duplication of evidence, effort, and judicial resources. A class action is the only practical way to avoid the potentially inconsistent results that numerous individual trials are likely to generate. Moreover, class treatment is the only

realistic means by which plaintiffs can effectively litigate against large, well-represented corporate defendants. Numerous repetitive individual actions would also place an enormous burden on the courts as they would be forced to take duplicative evidence and repeatedly decide the same issues concerning MetLife's conduct.

58. In the alternative, the Class may be certified under Rule 23 (b)(1) and/or (b)(2) because:

a. The prosecution of separate actions by individual Class members would create a risk of inconsistent or varying adjudication with respect to individual Class members that would establish incompatible standards of conduct for MetLife;

b. The prosecution of separate actions by individual Class members would create a risk of adjudications with respect to them which would, as a practical matter, be dispositive of the interests of other Class members not parties to the adjudications, or substantially impair or impede their ability to protect their interests; and/or

c. MetLife has acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final and injunctive relief with respect to the Class members as a whole.

61. Additionally, this case may be maintained as a class action with respect to particular issues under Fed. R. Civ. P. 23(c)(4), including but not limited to, the issue of whether MetLife improperly classified insurance underwriters employed in Missouri.

PRAYER FOR RELIEF

WHEREFORE, concerning Plaintiff's Count I for MetLife's alleged violation of the FLSA, Plaintiff prays for relief as follows:

1. Designation of this action as a collective action on behalf of the insurance underwriters and prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to all putative representative action plaintiffs (the FLSA opt-in class), apprising them of the pendency of this action and permitting them to assert timely FLSA claims in this action by filing individual consents to join pursuant to 29 U.S.C. § 216(b);

2. Designation of Plaintiff Hanis as Representative Plaintiff of the insurance underwriters;

3. Designation of Williams Dirks Dameron LLC, The Hodgson Law Firm, LLC, and the Employee Rights Law Firm as the attorneys representing the putative collective action plaintiffs;

4. A declaration that MetLife is financially responsible for notifying insurance underwriters of its alleged wage and hour violations;

5. A declaratory judgment that the practices complained of herein are unlawful under the FLSA;

6. An award of damages for overtime compensation due for Plaintiff and the insurance underwriters, including liquidated damages, to be paid by MetLife; and/or

7. Pre-Judgment and post-judgment interest, as provided by law; and

8. Costs and expenses of this action incurred herein, including reasonable attorneys' fees and expert fees.

WHEREFORE, concerning Plaintiff's Count II for MetLife's alleged violation of the MWL, Plaintiff prays for relief as follows:

1. Designation of this action as a class action under Fed. R. Civ. P. 23 on behalf of the Missouri Class and issuance of notice to all Missouri Class members, apprising them of the pendency of this action;
2. Designation of Plaintiff Hanis as Representative Plaintiff of the Missouri Class;
3. A declaration that MetLife is financially responsible for notifying the Missouri Class of its alleged wage and hour violations;
4. Designation of Williams Dirks Dameron LLC, The Hodgson Law Firm, LLC, and the Employee Rights Law Firm as the attorneys representing the Missouri Class;
5. A declaratory judgment that the practices complained of herein are unlawful under the MWL;
6. An injunction against MetLife and its officers, agents, successors, employees, representatives, and any and all persons acting in concert with MetLife, as provided by law, from engaging in each of the unlawful practices, policies, and patterns set forth herein;
7. An award of damages for overtime compensation due for Plaintiff and Missouri Class, including double, or penalty damages required under Missouri law, to be paid by MetLife;
8. Costs and expenses of this action incurred herein, including reasonable attorneys' fees and expert fees; and
9. Penalties for failing to timely pay wage and pre-Judgment and post-judgment interest, as provided by Missouri law.

DATED: December 11, 2014

Respectfully submitted,

WILLIAMS DIRKS DAMERON LLC

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