

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**G. CHRIS ONORATO,**

**Plaintiff,**

v.

**ABC DEBT RELIEF, LTD. CO.,  
LLOYD REGNER, AND  
KEVIN DEVOTO,**

**Defendants**

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**CIVIL ACTION:  
JURY DEMANDED**

**3:10-cv-1791**

**PLAINTIFF'S ORIGINAL COMPLAINT**

Plaintiff G. Chris Onorato files this Original Complaint, and states:

**I. INTRODUCTION**

1. This is a case for age discrimination, in violation of the Age Discrimination in Employment Act, 29 U.S.C. § 621, et seq. (“ADEA”); retaliation, in violation of Title VII of the 1964 Civil Rights Act, 42 U.S.C. 2000e, et seq. (“Title VII”); failure to pay overtime, in violation of the Fair Labor Standards Act, 29 U.S.C. §§ 201-219 (“FLSA”), and retaliation, in violation of the FLSA.

**II. JURISDICTION**

5. This Court has federal question jurisdiction over the subject matter of this action pursuant to the ADEA, Title VII, and the FLSA.

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1), (2).

**III. THE PARTIES**

7. Plaintiff G. Chris Onorato is an individual residing in Dallas County, Texas.

8. Defendant ABC Debt Relief, Ltd. Co. (“ABC”) is a for-profit, Texas limited liability company. Service of process may be had on ABC Debt Relief, Ltd. Co. at 12655 N.

Central Expressway, Suite 800, Dallas, Texas 75243.

9. Defendant Lloyd Regner (“Regner”) is an owner and Chief Executive Officer of ABC Debt Relief, Ltd. Co. During all material times, Regner was a supervisor of Plaintiff actively involved in the management of ABC. Service of process may be had on Lloyd Regner at 12655 N. Central Expressway, Suite 800, Dallas, Texas 75243.

10. Defendant Kevin Devoto is (“Devoto”) is an owner of ABC Debt Relief, Ltd. Co. During all material times, Devoto was a supervisor of Plaintiff actively involved in the management of ABC. Service of process may be had on Kevin Devoto at 12655 N. Central Expressway, Suite 800, Dallas, Texas 75243.

#### **IV. COVERAGE**

11. Defendants transact business in the Northern District of Texas.
12. At all material times, ABC has been an employer under the ADEA.
13. At all material times, ABC has been an employer under Title VII.
14. At all material times, Defendants have been an employer within the meaning of the FLSA.
15. At all material times, Defendants have been an enterprise within the meaning of the FLSA.
16. At all material times, Defendants have been an enterprise engaged in commerce or in the production of goods for commerce within the meaning of the FLSA because they have engaged employees in commerce.
17. Defendants have had, and continue to have, an annual gross income of sales made or business done of not less than \$500,000.
18. At all material times, Plaintiff was an individual employee engaged in commerce as required by the FLSA.

**V. FACTUAL ALLEGATIONS**

19. On or about January 3, 2010, Plaintiff became employed by ABC. Plaintiff's job title was Senior Debt Consultant.

20. During Plaintiff's employment with ABC, one of ABC's other Senior Debt Consultants, Robert McLain, referred to one of ABC's female employees, Melissa Laroach, as a "slut" and a "whore." Laroach heard McLain do so and began crying. Plaintiff told McLain to stop doing so. McLain responded to Plaintiff, "You must be a faggot." McLain then sent an email to ABC's other employees with a "photo shopped" photograph attached which suggested that Plaintiff was holding a penis-shaped ice cream cone. McLain also told ABC's other employees that Plaintiff drank "penis coladas." Previously, McLain had distributed in the office a photograph of Mel Gibson and told others there that Plaintiff was in love with Gibson.

21. Plaintiff complained to ABC about McLain's actions. Specifically, Plaintiff complained to Cameron Knox (Sales Manager), Devoto, and Rick Longo (Chief Financial Officer). After Plaintiff did so, ABC took away his position as a "team leader" and provided him with fewer leads than he had previously received. These actions resulted in Plaintiff losing income. ABC justified these actions based upon Plaintiff's allegedly poor performance, but Plaintiff's performance was better than that of other employees who were not subjected to these adverse employment actions.

22. On July 1, 2010, Plaintiff threatened ABC with legal action based upon the harassment, discrimination, and retaliation outlined above. At the same time, Plaintiff threatened ABC with legal action for violating the FLSA by failing to pay him overtime to which he was entitled.

23. During Plaintiff's employment with ABC, Plaintiff routinely worked in excess of 40 hours per week. Defendants knew that Plaintiff was doing so and directed him to do so.

Defendants did not pay Plaintiff at a rate of at least time-and-a-half for all hours in excess of 40 per week that Plaintiff worked.

24. ABC paid Plaintiff on a commission-only basis. ABC did not classify Plaintiff as an “exempt” employee, and Plaintiff’s duties did not make him exempt under the FLSA.

25. Shortly after Plaintiff threatened ABC with legal action, ABC placed Plaintiff on unpaid administrative leave. Since that date, Plaintiff has not been allowed to perform any work for ABC. Plaintiff has been constructively terminated.

26. Plaintiff is 50 years old. At all times, Plaintiff has been qualified to be a Senior Debt Consultant.

27. Younger, similarly-situated employees of ABC whose performance has not been as good as Plaintiff’s performance have not (a) had their title removed, (b) had leads taken from them, or (c) been placed on unpaid administrative leave.

28. Similarly-situated employees of ABC who did not complain of unlawful harassment and discrimination and whose performance has not been as good as Plaintiff’s performance have not (a) had their title removed, (b) had leads taken from them, or (c) been placed on unpaid administrative leave.

29. All of the adverse employment decisions involving Plaintiff, and the decision not to pay him overtime, were made in full or in part by Devoto and Regner.

30. As a result of Defendants’ wrongful conduct, Plaintiff has suffered emotional distress.

31. Defendants’ actions against Plaintiff were intentional, willful and malicious.

32. Plaintiff timely filed a charge of discrimination with the Equal Employment Opportunity Commission, received a notice of right to sue, and is filing this suit within 90 days of having received his notice of right to sue.

**VI. CAUSES OF ACTION**  
**(Defendant ABC Only)**

33. Paragraphs 1-32 are incorporated herein as if set forth in full.

34. Defendant ABC discriminated against Plaintiff because of his age. Defendant ABC took away Plaintiff's "team leader" position, took away leads from him, and placed him on an unpaid administrative leave. Plaintiff has been constructively terminated. Younger similarly-situated employees of ABC were not treated this way. As a result, Plaintiff has incurred lost wages. Plaintiff seeks to recover from ABC his back pay, front pay, and liquidated damages.

35. Defendant ABC unlawfully retaliated against Plaintiff, in violation of Title VII. Specifically, in response to Plaintiff's internal complaint about Mr. McLain's conduct, Defendant ABC took away Plaintiff's "team leader" position, deprived him of his leads, and placed him on unpaid administrative leave. Plaintiff has been constructively terminated. Similarly situated employees who did not report unlawful discrimination or harassment were not treated this way. As a result, Plaintiff has incurred lost wages and suffered emotional distress damages. Plaintiff seeks to recover from ABC front pay, back pay, and emotional distress damages.

**VII. CAUSES OF ACTION**  
**(All Defendants)**

36. Paragraphs 1-35 are incorporated herein as if set forth in full.

37. At all material times, all Defendants required and permitted Plaintiff to work in excess of forty (40) hours per week, but refused to pay Plaintiff at a time-and-a-half rate. Such conduct by Defendants was a violation of the FLSA which requires non-exempt employees to be compensated for their overtime work. Plaintiff seeks from all Defendants the overtime compensation to which he has been deprived, plus liquidated damages.

38. On or about July 1, 2010, Plaintiff notified ABC that he intended to pursue claims due to Defendants' aforementioned violations of the FLSA. In direct retaliation and in response

to said notification, Defendants placed Plaintiff on unpaid administrative leave and have not permitted him to work since that time. Plaintiff has been constructively terminated. Plaintiff seeks back pay, front pay, and liquidated damages. Forced leave may affect Plaintiff's opportunities for future advancement. Accordingly, Plaintiff is entitled to such legal or equitable relief as may be appropriate to effectuate the purposes of 29 U.S.C. § 215(a)(3), including, without limitation, employment, reinstatement, and promotion.

39. Plaintiff has had to retain the undersigned attorneys to prosecute his claims. Under the ADEA, Title VII, and the FLSA, Plaintiff is entitled to recover his reasonable and necessary attorneys' fees.

40. Plaintiff has met all conditions precedent to bringing these claims.

41. Plaintiff demands a trial by jury.

WHEREFORE, Plaintiff G. Chris Onorato seeks the following relief from Defendants:

1. Back pay;
2. front pay;
3. reinstatement to his former position of Senior Debt Consultant;
4. compensation for unpaid overtime;
5. compensatory damages;
5. liquidated damages;
6. punitive damages;
7. attorneys' fees and costs; and
8. all further relief to which Plaintiff may be entitled.

Respectfully submitted,

FELL & WOOD, LLP

/s/ Robert J. Wood, Jr.

Robert J. Wood, Jr.

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ATTORNEYS FOR PLAINTIFF

G. CHRIS ONORATO

**CERTIFICATE OF SERVICE**

This is the original complaint. Service will be made along with the summons that is issued by the clerk.

/s/Robert J. Wood, Jr.