

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
(Fort Lauderdale Division)

DAWN KOJAC,

Plaintiff,

vs.

U.S. INVESTIGATIONS SERVICE, LLC,  
A Delaware corporation,

Defendant.

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**COMPLAINT FOR DAMAGES**

Plaintiff, DAWN KOJAC, sues Defendant, U.S. INVESTIGATIONS SERVICES, LLC,  
and shows:

**Introduction**

1. This is an action by DAWN KOJAC against her former employer, U.S. INVESTIGATIONS SERVICE, LLC, for unpaid overtime and retaliation pursuant to the Fair Labor Standards Act. By the filing of this action, Plaintiff seeks damages and a reasonable attorney's fee.

**Jurisdiction**

2. This action arises under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 207 and 215(a)(3). The Court has jurisdiction over the claims pursuant to 29 U.S.C. § 216(b).

3. The claim arose within the Southern District of Florida, which is where venue is proper.

### **Parties**

4. Plaintiff, DAWN KOJAC (hereinafter “KOJAC”) a resident of Broward County, Florida, was at all times material, employed by Defendants as an investigator and was an employee as defined by 29 U.S.C. § 203(e).

5. Defendant, U.S. INVESTIGATIONS SERVICE, LLC (hereinafter “USIS”), is a Delaware corporation doing business in the Southern District of Florida. USIS is an enterprise engaged in an industry affecting commerce, is an employer as defined by 29 U.S.C. § 203(d), which has employees subject to the provisions of the FLSA, 29 U.S.C. § 207, in the facility where KOJAC was employed.

### **Factual Allegations**

6. Defendant USIS is a private company that contracts with the federal government to provide background investigations to the United States Office of Personnel Management (“OPM”) secret and top secret security clearances.

7. KOJAC was employed by Defendant as an investigator, from on or about November 21, 2011 until on or about November 10, 2012. USIS field investigators conduct background investigations of individuals seeking employment or already employed by the federal government.

8. Investigators like KOJAC worked primarily out of their homes and with a company car, compiling data for reports based on public records, documents and interviews. They were told that they were expected to work 40 hours a week, eight hours per day, and that any overtime must be approved in advance. USIS expected investigators to close their

investigation within the specific time limits allotted to the file, regardless of the number of individuals to be interviewed or the length of the interviews.

9. During her employment with USIS, Plaintiff KOJAC'S supervisor Michelle Torres routinely assigned her cases, tasks, and duties with deliberate set completion time requirements and limitations that were inconsistent with the performance of those tasks according to published company and United States Government policy.

10. Ms. Torres knew or should have known that Plaintiff would typically need to work from 10 to 20 hours of overtime per week in order to finish the work in accordance with USIS and OPM standards. This included working at home and on the weekends.

11. Although KOJAC was occasionally paid overtime during her employment, Defendant, through Michelle Torres, had actual or constructive knowledge that KOJAC'S job duties and responsibilities as an investigator required her to work many additional overtime hours for which she was not paid.

12. Defendant's overtime policy required pre-approval for all overtime hours. Although Defendant on rare occasions approved some overtime pay, it refused to approve or pay KOJAC for numerous overtime hours that it knew were being worked by KOJAC.

13. KOJAC was never disciplined for working non-approved overtime hours, even though USIS had actual or constructive knowledge of the overtime hours worked by KOJAC for which she had not been approved.

14. By restricting the number of overtime hours that it would pay, USIS essentially forced KOJAC to work without overtime pay, under threat of termination if she did not meet company performance standards regarding the number of investigations assigned to her.

15. In or about late October 2012, Michelle Torres – who was based in Puerto Rico – came to South Florida to meet with KOJAC in person to observe KOJAC and discuss her job performance. As part of the observation, Ms. Torres rode with KOJAC for a day while KOJAC performed her job duties.

16. During the day that they spent together, Ms. Torres told KOJAC that she was not completing her investigations within the allotted time frame, and that her failure to timely meet her production quota was negatively impacting Ms. Torres' bonus.

17. In response to her criticism of her job performance, KOJAC complained to Ms. Torres that it was impossible to complete her quota of investigations within the allotted time frames and that, in order to meet her performance standards, she was working many overtime hours off the clock for which she was not being paid. KOJAC further told Torres that she wanted to be compensated for all of the unpaid overtime that she had worked.

18. Within a few weeks of her complaints to Ms. Torres about unpaid overtime, on or about November 10, 2012, KOJAC was terminated from her job for allegedly failing to meet USIS performance standards for investigators.

19. There are no legitimate non-retaliatory reasons for KOJAC'S termination by USIS after she complained about unpaid overtime.

**Count I/Violation of FLSA by Defendant USIS**  
**Unpaid Overtime**

20. Plaintiff KOJAC realleges, as if fully set forth at Count I, the allegations of paragraphs 1 through 19.

21. Since on or about November 2011 up to and including November 10, 2012, USIS has willfully violated the provisions of §7 of the Act [29 U.S.C. §207] by employing employees

engaged in commerce for workweeks longer than 40 hours without compensating them for their employment in excess of 40 hours at rates not less than one and one-half times the regular rates at which they were employed: specifically KOJAC worked in excess of 40 hours a week virtually every week of her employment, and was not compensated for the work in excess of 40 hours at a rate not less than one and one-half times the regular rate at which she was employed.

22. Although KOJAC was occasionally paid overtime during her employment, Defendant had actual or constructive knowledge that KOJAC'S job duties and responsibilities as an investigator required her to work additional overtime hours for which she was not paid.

23. The failure to pay overtime compensation to KOJAC is unlawful in that she was not exempted from the overtime provisions of the Act pursuant to the provisions of 29 U.S.C. § 213(a), in that she neither was a bona fide executive, administrative or professional employee, or in the alternative, if KOJAC was exempt, Defendant's actions and/or conduct have effectively removed any exemption that may have applied to KOJAC.

24. Defendant's actions were willful and purposeful as it was well aware of the Fair Labor Standards Act and KOJAC'S status as non-exempt, but chose not to pay her in accordance with the Act.

25. KOJAC is entitled pursuant to 29 U.S.C. § 216(b), to recover from USIS,:

- a. All unpaid overtime that is due;
- b. As liquidated damages, an amount equal to the unpaid overtime owed;
- c. The costs of this action, and;
- d. A reasonable attorney's fee.

WHEREFORE, Plaintiff, DAWN KOJAC, prays that this court will grant judgment against Defendant USIS:

- a. Awarding KOJAC payment of overtime compensation found by the court to be due to her under the Act, including pre-judgment interest;
- b. Awarding KOJAC an additional equal amount as liquidated damages;
- c. Awarding KOJAC her costs, including a reasonable attorney's fee; and
- d. Granting such other and further relief as is just.

**Count II/Violation of FLSA by USIS**

**Retaliation**

26. Plaintiff realleges, as if fully set forth in Count II, the allegations of Paragraphs 1 through 25 above.

27. Plaintiff's statements and complaints more particularly described above constitute statutorily protected conduct under Section 15(a)(3) of the FLSA.

28. As a result of Plaintiff's complaints to Michelle Torres about unpaid overtime, Defendant USIS discharged Plaintiff from her employment for pretextual reasons.

29. Defendant's actions more particularly described above were directly related to and in response to Plaintiff's complaints about the alteration of time entries to avoid paying overtime, since there are no other justifiable reasons for Defendant's adverse action.

30. Defendant's adverse treatment of Plaintiff was pre-textual and a direct result of Plaintiff's opposition to Defendant's unlawful pay practices, and the conduct violated Plaintiff's rights against retaliation for opposing unlawful employment actions, which retaliation is proscribed by the FLSA.

31. KOJAC is entitled pursuant to 29 U.S.C. § 216(b), to recover from USIS:

- a. All lost wages that are due, including pre-judgment interest;
- b. As liquidated damages, an amount equal to lost wages

- c. The costs of this action, and;
- d. A reasonable attorney's fee.

WHEREFORE, Plaintiff DAWN KOJAC prays that this court will grant judgment against Defendant USIS:

- a. awarding Plaintiff all lost wages found by the court to be due to her, including pre-judgment interest;
- b. awarding Plaintiff payment of liquidated damages in an amount equal to the lost wages due to her;
- c. awarding Plaintiff her costs, including a reasonable attorney's fee; and
- d. granting such other and further relief as is just.

Dated: October 4, 2013  
Lauderhill, Florida

Respectfully submitted,

/s/ Christopher C. Sharp  
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