

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
JENNIFER JALBERT, individually and)	
on behalf of all others similarly situated,)	
Plaintiffs,)	
)	
v.)	Civil Action No. 1:15-cv-10452
)	
GRADUATE LEVERAGE, LLC and)	
DANIEL THIBEAULT,)	
Defendants.)	
_____)	

CLASS ACTION COMPLAINT

I. INTRODUCTION

1. Plaintiff, Jennifer Jalbert (“Jalbert” or “Plaintiff”), by and through undersigned counsel, on behalf of herself and all others similarly situated, submits the following class action complaint against Graduate Leverage LLC d/b/a GL Advisor (“GL”), and its principal Daniel Thibealt (collectively “Defendants”), based on the Defendants’ failure to pay wages, commissions and vacation pay.

II. PARTIES

2. Jennifer Jalbert is an individual residing in Andover, Essex County, Massachusetts.

3. Graduate Leverage, LLC is a Massachusetts limited liability company with a principal place of business located at 400 Fifth Avenue, Suite 600, Waltham, Massachusetts.

4. GL is engaged in interstate commerce. It has clients throughout the United States and the world, and works with various investments throughout the United States and the world.

5. Daniel Thibeault is an individual residing in Framingham, Massachusetts.

6. Thibeault is the sole manager, director, owner, principal and officer with the

management of GL. He is in charge of all operations, management and personnel decisions, including payroll and the hiring/firing of employees.

III. JURISDICTION AND VENUE

7. The jurisdiction of this Court is lawful pursuant to 28 U.S.C., § 1331 (federal subject-matter jurisdiction).

8. Venue is proper in this District pursuant to 28 U.S.C. § 1391(a) because a substantial part of the events giving rise to the claim occurred in this District including the employment of most parties within the Commonwealth of Massachusetts.

IV. FACTUAL ALLEGATIONS

9. On December 10, 2014 GL effectively shuttered operations when the FBI raided the Waltham offices, and froze various assets belonging to the Defendants. Simultaneously, the SEC filed a lawsuit styled *Securities and Exchange Commission v. Thibealt, et al.*, C.A. No. 1:15-cv-10050-NMG (D. Mass) (the “SEC Action”). This action is pending before this Court. It alleges that the defendants and other affiliates engaged in securities fraud.

10. At the time of the FBI raid, there were approximately thirty (30) employees in the Waltham, Massachusetts office. There were other employees at various locations throughout the world.

11. On February 6, 2015, the Defendants did not pay any of its employees. The compensation owed to its employees included a bi-weekly salary, commissions, and reimbursable expenses.

12. In addition, each employee is entitled to payment for accrued vacation time. GL has an employee handbook that expressly requires payment of vacation pay to departing employees whether separated from the business voluntarily or involuntarily.

13. On February 6, 2015, the day the defendants missed payroll, Jalbert was not paid her bi-weekly salary.

14. Her annual salary is \$44,940.00. Accordingly, she was owed \$1,728.46 in wages for the missed pay cycle with a pay day of February 6, 2015.

15. As a result, Jalbert resigned from GL on February 15, 2015.

16. At the time of her resignation, Jalbert was owed 120 hours of vacation pay. This totals \$2,592.69 in unpaid vacation pay.

17. Combined, GL owes Jalbert \$4,321.15.

18. The defendants conduct was repeated, willful, intentional, and knowing, and a result of its conduct of defrauding its clientele and attempts to conceal assets.

V. CLASS ACTION ALLEGATIONS

19. Pursuant to the provisions of Rule 23 of the Federal Rules of Civil Procedure and G. L. c. 149, § 150, Jalbert brings this action on behalf of herself and on behalf of others similarly situated, in the Class defined as: “all employees of Graduate Leverage, LLC who did not receive payment of wages, commissions, reimbursable expenses and/or vacation pay from February 20, 2012 to the present.”

20. Certification of Jalbert’s claims for class-wide treatment is appropriate because Jalbert can prove the elements of his claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

21. Numerosity. The Class is so numerous that individual joinder of all Class members is impracticable. The precise number of Class members and their addresses are unknown to Jalbert, but may be ascertained from defendants’ books and payroll records. Class members may be notified of the pendency of this action by recognized, Court-approved notice

dissemination methods, which may include U.S. mail, electronic mail, Internet postings, and/or published notice.

22. Commonality and Predominance. This action involves common questions of law and fact, which predominate over any questions affecting only individual Class members. All Class members did not receive earned compensation during the class period, as alleged by Jalbert.

23. Furthermore, common questions of law and fact, include, but are not limited to:

- a. Whether Defendants' conduct as alleged herein violated the Massachusetts Wage Act;
- b. Whether Defendants' conduct as alleged herein violated the Fair Labor Standards Act; and
- c. Whether Jalbert and members of the Class should be compensated in quantum meruit.

24. Typicality. Jalbert's claims are typical of the claims of the other members of the Class because, among other things, all Class members were similarly injured through the uniform misconduct described herein and all Class members have the same claim.

25. Adequacy of Representation. Jalbert is an adequate Class representative because her interests do not conflict with the interests of the other members of the Class she seeks to represent; she has retained counsel competent and experienced in class action litigation and employment litigation; and Jalbert intends to prosecute this action vigorously. The Class' interests will be fairly and adequately protected by Jalbert and her counsel.

26. Similarly Situated and Injured Persons. The proposed Class consists of persons who have suffered the same injury as Jalbert and who, for the reasons stated above, are similarly situated to each other and to Jalbert.

27. Superiority. A class action is superior to any other available methods for fairly

and efficiently adjudicating this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Jalbert and the other members of the Class are relatively small compared to the burden and expense that would be required to individually litigate their claims against the Defendants, so it would be impracticable for Class members to individually seek redress for Defendants' wrongful conduct. Even if the Class members could afford individual litigation, the court system could not. Individualized litigation creates a potential for inconsistent or contradictory judgments, and increases the delay and expense to all parties and the court system. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

VI. CAUSES OF ACTION

COUNT ONE **VIOLATIONS OF THE FAIR LABOR STANDARDS ACT** **29 U.S.C., § 201, ET SEQ.**

28. Plaintiff readopts and realleges the preceding paragraphs, and incorporates them into this count.

29. By failing to pay wages to the Plaintiff and members of the Class, the Defendants conduct violated the minimum wage and other provisions of the Fair Labor Standards Act.

30. Defendants' violations of 29 U.S.C., § 206 were repeated, willful and intentional.

31. Plaintiff and the Class has been damaged by Defendants' conduct.

32. Pursuant to 29 U.S.C., §§ 206 and 216(b), the Defendants are liable to Plaintiff and the Class for the full amount of these unpaid wages, plus an additional equal amount as liquidated damages, plus costs and reasonable attorneys' fees.

COUNT TWO
VIOLATIONS OF THE MASSACHUSETTS WAGE ACT

33. Plaintiff readopts and realleges the preceding paragraphs, and incorporates them into this count.

34. Defendants violated G. L. c. 149, § 148 by not paying wages owed to Plaintiff and members of the Class including the wages, commissions, reimbursable expenses and vacation pay.

35. Defendants further violated the Massachusetts Wage Act by failing to pay wages timely at the conclusion of the pay period.

36. As a direct and proximate cause of Defendants' conduct, Plaintiff and members of the Class have incurred significant financial damages.

37. Pursuant to G. L. c. 149, § 150, Defendants are liable to Plaintiff and members of the Class for three times the amount of any unpaid compensation plus costs and reasonable attorneys' fees.

COUNT THREE
QUANTUM MERUIT

38. Plaintiff readopts and realleges the preceding paragraphs, and incorporates them into this count.

39. Plaintiff and other members of the Class conferred a benefit on the Defendants by working diligently on their behalf.

40. Defendants received a benefit as a result of Plaintiff's and other members of the Class' work.

41. Defendants were aware of the benefits received, and it would be unjust to allow the retention of these services without compensating Jalbert and other members of the Class.

VII. PRAYER FOR RELIEF

WHEREFORE, the plaintiff Jennifer Jalbert, individually and on behalf of the other members of the Class, respectfully requests that the Court order the following relief:

- A. An Order certifying the Class as requested herein;
- B. Actual and statutory damages;
- C. Multiple damages as required by law;
- D. Attorneys' fees and costs to plaintiff and the Class; and
- E. Such other and further relief as may be just and proper.

VIII. JURY DEMAND

Jalbert and the Class demand a trial by jury of all claims in this Complaint so triable.

Respectfully submitted,

/s/ Joshua N. Garick

Joshua N. Garick (BBO #674603)
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Woburn, Massachusetts 01801
Phone: (617) 600-7520
Joshua@GarickLaw.com

Counsel for Plaintiff and the Class

Dated: February 19, 2015

JS 44 (Rev. 12/12)

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 NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Jennifer Jalbert, individually and on behalf of all others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

Joshua N. Garick, Esq., Law Offices of Joshua N. Garick, P.C., 100 TradeCenter, Suite G-700, Woburn, MA 01801 (617) 600-7520

DEFENDANTS

Graduate Leverage, LLC and Daniel Thibeault

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

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

Attorneys (If Known)

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

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

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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

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. 206

Brief description of cause:

Unpaid wages, commissions, reimbursable expenses and vacation pay, brought as a putative class action.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
390,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Gorton

DOCKET NUMBER 1:15-cv-10050-NMG

DATE

02/19/2015

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Jennifer Jalbert, et al. v. Graduate Leverage, LLC, et al.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

I. 410, 441, 470, 535, 830*, 891, 893, 895, R.23, REGARDLESS OF NATURE OF SUIT.

II. 110, 130, 140, 160, 190, 196, 230, 240, 290,320,362, 370, 371, 380, 430, 440, 442, 443, 445, 446, 448, 710, 720, 740, 790, 820*, 840*, 850, 870, 871.

III. 120, 150, 151, 152, 153, 195, 210, 220, 245, 310, 315, 330, 340, 345, 350, 355, 360, 365, 367, 368, 375, 385, 400, 422, 423, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, 625, 690, 751, 791, 861-865, 890, 896, 899, 950.

*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

Securities and Exchange Commission v. Daniel Thibeault, et al., 1:15-cv-10050-NMG

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES NO

7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES NO

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division Central Division Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division Central Division Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (if yes, submit a separate sheet identifying the motions)

YES NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Joshua N. Garick

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