

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

---

ROBERT W. HADLEY, JR., and  
XAVIER BECTON, on behalf of themselves  
and all other similarly situated employees,

Plaintiffs,

v.

Case No. \_\_\_\_\_

THE CABLE GUYS, INC. and  
BURGE FRANKS,

Defendants.

**Jury Trial Demanded**

---

**COLLECTIVE ACTION COMPLAINT UNDER THE FLSA**

---

Plaintiffs Robert W. Hadley, Jr. and Xavier Becton, through their attorneys make the allegations contained herein on behalf of themselves and all others similarly situated.

**JURISDICTION**

1. This Court has original jurisdiction to hear this Complaint and to adjudicate the claims stated herein under 28 U.S.C. § 1331, this action being brought under the Federal Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (“FLSA”).

**PARTIES**

2. Plaintiff Robert Hadley, Jr. is an adult resident of the State of Mississippi. Plaintiff was employed by Defendants as an installer and/or technician during the applicable statutory period.

3. Plaintiff Xavier Becton is an adult resident of the State of Tennessee. Plaintiff was employed by Defendants as an installer and/or technician during the applicable statutory

period.

4. Defendant The Cable Guys, Inc. is a corporation with its principal place of business in Shelby County, Tennessee and does business at 4009 Broadway Road, Bartlett, Tennessee 38135. The Cable Guys, Inc. is a supplier of technical/installation services to Comcast. The Cable Guys, Inc. is an “employer” within the meaning of the FLSA, 29 U.S.C. § 203(d).

5. Defendant Burge Franks is the owner and managing operator of Defendant The Cable Guys, Inc. Defendant Franks, upon information and belief, has been solely or substantially responsible for willfully and intentionally misclassifying the Plaintiffs as independent contractors when they should have been classified as employees and has been solely or substantially responsible for failing to pay the Plaintiffs overtime wages in compliance with the FLSA. During the statutory period, Defendant Franks has been a person acting directly or indirectly in the interest of Defendant The Cable Guys, Inc. in relation to the Plaintiff and is thus an “employer” within the meaning of the FLSA, 29 U.S.C. § 203(d).

#### **COLLECTIVE ACTION ALLEGATIONS**

6. Plaintiffs bring this action on behalf of themselves and other similarly situated employees as authorized under FLSA § 16(b), 29 U.S.C. § 216(b). Plaintiffs’ written consent forms are attached hereto as Exhibit A.

7. The FLSA requires covered employers, such as Defendants, to compensate all non-exempt employees at a rate of not less than one and one-half times the regular rate of pay for work performed in excess of forty (40) hours per work week.

8. Upon information and belief, during a portion of the relevant time period, Defendants willfully and intentionally misclassified Plaintiffs as “independent contractors” in an

effort to avoid having to pay the Plaintiffs, and others similarly situated, overtime compensation as required by the FLSA. Specifically, based on the economic realities of the facts and circumstances in this matter, Defendants knew that Plaintiffs and others similarly situated should not have been classified as independent contractors.

9. Upon information and belief, during a portion of the relevant time period, Defendants properly classified Plaintiffs and other similarly situated as employees, but Defendants suffered and permitted Plaintiffs and the similarly situated employees to routinely work more than forty (40) hours per week without overtime compensation.

10. At all times during the relevant time period, Defendants knew that Plaintiffs and the similarly situated employees performed work that required overtime pay at one and one-half times their regular rate of pay.

11. These practices set forth above violate the provisions of the FLSA, 29 U.S.C. §§ 201 *et seq.*, specifically § 207(a)(1). As a result, Plaintiffs and the similarly situated employees suffered a loss of wages.

12. Further, by failing to accurately record, report, and/or preserve records of hours worked by Plaintiffs and the similarly situated employees, Defendants have failed to make, keep, and preserve records with respect to each of its employees sufficient to determine their wages, hours, and other conditions and practice of employment, in violation of the FLSA, 29 U.S.C. §§ 201, *et seq.*

13. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(a) as Defendants knew, or showed reckless disregard for the fact that their compensation practices were in violation of these laws.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs and all employees similarly situated who join in this action demand:

1. Issuance of notice as soon as possible to all installers and technicians who were employed by Defendants during any portion of the three years immediately preceding the filing of this action. Generally, this notice should inform them that this action has been filed, describe the nature of the action, and explain their right to opt into this lawsuit if they were not paid the proper overtime compensation for their hours worked in any week during the statutory period;
2. Designation of this action as a collective action on behalf of the FLSA collective class pursuant to 29 U.S.C. § 216(b);
3. Judgment against Defendants for an amount equal to Plaintiffs' unpaid back wages at the applicable overtime rates;
4. Judgment against Defendants that their violations of the FLSA were willful;
5. An equal amount to the overtime damages as liquidated damages;
6. All recoverable costs, expenses, and attorney's fees incurred in prosecuting these claims;
7. Leave to add additional plaintiffs by motion, the filing of written consent forms, or any other method approved by the Court;
8. Leave to amend to add claims under applicable state and federal laws, including claims for minimum wages pursuant to 29 U.S.C. § 206;
9. Leave to amend to add other defendants who meet the definition of Plaintiffs' "employer," 29 U.S.C. § 203(d);
10. An order requiring Defendants to preserve all electronically stored information relevant to this lawsuit; and,
11. For all such further relief as the Court deems just and equitable.

Dated: 7.10.09

Respectfully submitted,

/s/ William B. Ryan

Donald A. Donati - TN Bar # 8633

William B. Ryan - TN Bar # 20269

DONATI LAW FIRM, LLP

1545 Union Avenue

Memphis, TN 38104

Telephone: 901-278-1004

Fax: 901-278-3111

billy@donatilawfirm.com

&

Thomas F. Donaldson – TN Bar # 16062

P.O. Box 949

Marion, AR 72364

Telephone: 870-739-2588

Fax: 870-739-4403

tfdonaldson@donaldsonlawfirm.com

ATTORNEYS FOR PLAINTIFFS

**FLSA ACTION AGAINST  
THE CABLE GUYS, INC. & BURGE FRANKS**

**PLAINTIFF CONSENT FORM**

I hereby consent to join the action against The Cable Guys, Inc. and Burge Franks as a Plaintiff to assert claims for overtime pay and/or minimum wage pay. If this case does not proceed collectively, I also consent to join any subsequent action to assert claims against The Cable Guys, Inc. and Burge Franks Inc. for overtime pay and/or minimum wage pay. During the past three years, there were occasions when I worked over 40 hours per week as an installer or technician and did not receive overtime compensation and/or minimum wage pay.

 7-10-09  
Signature Date

Robert W. Hadley, Jr  
Print Name

9400 Goodman Rd #23D  
Address (with apartment number if applicable)

Olive Branch MS 38654  
City, State, Zip Code

731-499-3400  
Home Telephone

None  
Mobile Telephone

Robert.W.HadleyJr@gmail.com  
E-Mail Address

7227  
Social Security Number (last 4 digits)

Justin Hadley 901-491-6965  
Emergency Contact (add phone number)

Fax, Mail or Email to: Donati Law Firm, LLP  
Attn: Billy Ryan  
1545 Union Avenue  
Memphis, TN 38104  
Fax: 901/278-3111  
Toll Free Telephone: 800/521-0578  
Email: billy@donatilawfirm.com

**FLSA ACTION AGAINST  
THE CABLE GUYS, INC. & BURGE FRANKS**

**PLAINTIFF CONSENT FORM**

I hereby consent to join the action against The Cable Guys, Inc. and Burge Franks as a Plaintiff to assert claims for overtime pay and/or minimum wage pay. If this case does not proceed collectively, I also consent to join any subsequent action to assert claims against The Cable Guys, Inc. and Burge Franks Inc. for overtime pay and/or minimum wage pay. During the past three years, there were occasions when I worked over 40 hours per week as an installer or technician and did not receive overtime compensation and/or minimum wage pay.

Xavier Becton 7-10-09  
Signature Date

Xavier Becton  
Print Name

6154 Ridgewick #1  
Address (with apartment number if applicable)

Memphis, In. 38115  
City, State, Zip Code

901-503-0450  
Home Telephone

901-503-0450  
Mobile Telephone

Xman 6154@yahoo.com  
E-Mail Address

-5839  
Social Security Number (last 4 digits)

901-794-1582  
Emergency Contact (and phone number)

Fax, Mail or Email to: Donati Law Firm, LLP  
Attn: Billy Ryan  
1545 Union Avenue  
Memphis, TN 38104  
Fax: 901/278-3111  
Toll Free Telephone: 800/521-0578  
Email: billy@donatilawfirm.com