

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

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

LUIS BERTOT,

Plaintiff,

vs.

COMCAST CABLE COMMUNICATIONS  
MANAGEMENT, LLC, a Foreign  
Limited Liability Company;  
MARK FLEMING, an individual, jointly

Defendants.

\_\_\_\_\_ /

**COMPLAINT**

(OPT-IN PURSUANT TO 29 U.S.C. § 216(B))

Plaintiff, Luis Bertot (“Named Plaintiff”), on behalf of himself and all others similarly situated under 29 U.S.C. § 216(b), sues Defendants, Comcast Cable Communications Management, LLC (“Comcast”) and Mark Fleming (“Fleming”) (collectively referred to as “Defendants”), and alleges as follows:

1. Named Plaintiff has initiated the instant action to redress violations by Defendants of the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.* (“FLSA”). Named Plaintiff asserts that Defendants failed to pay Named Plaintiff and those similarly situated proper overtime compensation in violation of the FLSA.

2. Plaintiff seeks all damages provided for under the FLSA, including attorneys’ fees and costs.

**PARTIES, JURISDICTION, AND VENUE**

3. Plaintiff is an individual over the age of 18 and is otherwise *sui juris*.

4. During the relevant period, Plaintiff was a resident of Miami-Dade County, Florida.

5. Comcast is a business entity which, during the relevant period, was a Foreign Limited Liability Company that conducted business within the Southern District of Florida.

6. During the relevant period, Fleming was a Senior Director and then Vice President of Human Resources of Comcast, who conducted business within the Southern District of Florida.

7. At all relevant times, Defendants acted through their owners, officers, agents, servants, and employees, each of whom acted within the scope of their employment with Defendants.

8. During the relevant period, Defendants were the employer, joint employer, or co-employer for purposes of the FLSA as the term employer is defined by 29 U.S.C. § 203, for Named Plaintiff.

9. Jurisdiction is conferred upon this Court by:

a) 28 U.S.C. § 1331;

b) 28 U.S.C. § 1367; and

c) 29 U.S.C. § 216(b), which allows for a claim regarding violations of the

FLSA to be brought in any court of competent jurisdiction.

10. Venue is proper in the Southern District of Florida because:

a) Named Plaintiff is employed in the Southern District of Florida by Defendants;

b) During the relevant period, Defendants conducted business within the Southern District of Florida;

c) The acts that give rise to the claims by Named Plaintiff occurred in the Southern District of Florida; and

d) During the relevant period, Comcast maintained an office for the transaction of its customary business in in the Southern District of Florida.

11. During the relevant period, Comcast was an enterprise that engaged in interstate commerce and had annual gross revenue in excess of \$500,000.

12. During the relevant period, Comcast employed two or more individuals that customarily and regularly sold and/or marketed and/or distributed their services and/or goods and/or services to customers throughout the United States and also provided its services for goods sold and transported across state lines of numerous other states.

13. During the relevant period, Comcast obtained and solicited funds from non-Florida sources, accepted funds from non-Florida sources, used telephonic transmissions going over state lines to do business, transmitted funds outside the state of Florida, and otherwise regularly engaged in interstate commerce.

14. During the relevant period, Comcast accepted checks, wire transfers, and other forms of payments that were made or processed outside the State of Florida.

15. During the relevant period, Defendants were “employers” pursuant to the FLSA.

16. During the relevant period, Comcast was an enterprise engaged in commerce as defined in 29 U.S.C. §§ 203(r) and 203(s).

17. During the relevant period, Named Plaintiff was an “employee” pursuant to 29 U.S.C. § 203(e)(1) of the FLSA, and is an employee of Defendants.

18. During the relevant period, Defendants failed to comply with 29 U.S.C. §§ 201-219 in that Named Plaintiff and those similarly situated performed services for Defendants and were not paid overtime wages at the rate of time and one-half for all hours worked in excess of 40 hours in each workweek.

19. Claims under the FLSA do not have prerequisites or preconditions to filing a lawsuit and therefore, Named Plaintiff has met all prerequisites and preconditions to filing this lawsuit.

### **FLSA COLLECTIVE ACTION ALLEGATIONS**

20. In addition to bringing this action individually, Named Plaintiff brings this action for violations of the FLSA as a collective action pursuant to 29 U.S.C. § 216(b), on behalf of employees who performed similar functions for Defendants, were subjected to Defendants' unlawful pay practices and policies, and who worked for Defendants at any point in the three years preceding the date the instant action was filed (the members of this putative class are referred to as "Collective Plaintiffs").

21. Named Plaintiff and Collective Plaintiffs worked for Defendants in the Southern District of Florida at some point in the three years preceding the date the instant action was filed.

22. Named Plaintiff and Collective Plaintiffs are similarly situated, have substantially similar job duties, have substantially similar pay provisions, and are all subject to Defendants' unlawful policies and practices as discussed herein.

23. There are numerous similarly situated current and former employees of Defendants who worked overtime hours during the relevant period without receiving overtime compensation, and who would benefit from the issuance of a Court Supervised Notice of the instant lawsuit and the opportunity to join in the present lawsuit.

24. Similarly situated current and former employees are known to Defendants, are readily identifiable by Defendants, and can be located through Defendants' records.

25. Upon information ad belief, Defendants' pattern and practice of depriving non-exempt Human Resources employees overtime compensation extended to those who are similarly

situated to Named Plaintiff.

26. Therefore, Named Plaintiff should be permitted to bring this action as a collective action for and on behalf of himself and those similarly situated employees, pursuant to the “opt-in” provisions of the FLSA, 29 U.S.C. § 216(b).

### **FACTUAL ALLEGATIONS**

27. Named Plaintiff began working at Comcast on or about May 14, 2018. Named Plaintiff is currently employed at Comcast.

28. Named Plaintiff was hired by Comcast as a Human Resources Manager 1 supporting the Telesales Department, and was paid a salary of approximately \$85,000 per year.

29. Named Plaintiff’s immediate supervisor was Human Resources Director, Lynn Barrett, who reported to the Vice President of Human Resources, Mark Fleming.

30. On or about March 24, 2019, Named Plaintiff was given a new title of Human Resources Manager 2 and his salary increased to approximately \$106,593 per year.

31. Plaintiff received another salary increase and is currently earning approximately \$109,524.22 per year.

32. During Named Plaintiff’s employment at Comcast, up to and including March 2020, Named Plaintiff regularly worked in excess of 40 hours in a workweek but did not receive time and one half of his regular rate for these overtime hours.

33. Although Named Plaintiff’s hours varied, during the relevant period, he generally worked 50-65 hours per week and averaged approximately 17 hours of overtime each workweek.

34. Upon information and belief, Collective Plaintiffs also worked approximately the same number of hours per workweek within the three-year statutory period without receiving overtime compensation.

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