

**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION**

**DULENE AMILCAR, BARBARA
COLOGGI, CRISTINE GALVIN,
MARTHA HASSALL, BRUCE
KNECHT, JODY KNECHT,
CHARLES LANGDON, SHELLY
LIGHTSEY, JAMES "MARK"
TERRELL, and PATRICIA
THOMPSON,**

Case No.:

Plaintiffs,

vs.

**WYNDHAM VACATION
OWNERSHIP, INC., a foreign
profit corporation,**

Defendants.

COMPLAINT

COME NOW, Plaintiffs, DULENE AMILCAR, BARBARA COLOGGI, CRISTINE GALVIN, MARTHA HASSALL, BRUCE KNECHT, JODY KNECHT, CHARLES LANGDON, SHELLY LIGHTSEY, JAMES "MARK" TERRELL, and PATRICIA THOMPSON, by and through their undersigned counsel, and sue Defendant, WYNDHAM VACATION OWNERSHIP, INC., a foreign profit corporation, and state as follows:

JURISDICTION AND VENUE

1. This is an action for damages in excess of Fifteen Thousand Dollars (\$15,000), excluding interest and costs.

2. Defendant, WYNDHAM VACATION OWNERSHIP, INC., (hereinafter “WYNDHAM”) is a Delaware corporation licensed to and doing business in Clearwater, Pinellas County, Florida.

3. Venue is proper because a substantial part of the events or omissions giving rise to this claim occurred in this Judicial District.

PARTIES

4. Plaintiffs were employed at Defendant, WYNDHAM’s, Clearwater Beach Resort.

5. Plaintiffs were employed by Defendant, WYNDHAM, as Sales Representatives, with the exceptions of Plaintiffs DULENE AMILCAR, who was employed as Business Operations Coordinator, and BARBARA COLOGGI, who was employed as a Community Marketing Agent.

6. At all times material hereto, Plaintiffs reported to supervisors John Topolosky, Director of Sales; Brandon Narain, Frontline Manager; Steven Pinta, In-House Manager; Sabrina Manghir, Community Marketing Agent Manager; Tara Wiles, Director of Marketing; and Susan Klein, Business Operations Manager (collectively, in whole or in part, “Supervisors”).

7. Plaintiffs’ job duties as Sales Representatives included giving tours and selling timeshares at Defendant, WYNDHAM’s, Clearwater Beach Resort property.

8. Plaintiff, DULENE AMILCAR’s, job duties as Business Operations Coordinator, included running the tour reception area, validating all work flow pertaining to the tour receptionist, and assigning the potential buyers to Sales Representatives to receive tours through the use of Defendant, WYNDHAM’s, “rotation wheel” system.

9. Plaintiff, BARBARA COLOGGI’s, job duties as Community Marketing Agent included recruiting potential timeshare buyers off the street in the vicinity of Defendant WYNDHAM’s Clearwater Beach Resort to receive tours from the Sales Representatives.

10. Throughout the course of their employment with Defendant, WYNDHAM, Plaintiffs objected to and/or refused to participate in various illegal sales practices which their supervisors engaged in and/or instructed Plaintiffs to engage in, in violation of Fla. Stats. 475.42(1)(a), 475.42(1)(e), 475.42(1)(m), and 475.42(1)(n).

GENERAL ALLEGATIONS

11. Defendant, WYNDHAM, opened its Clearwater Beach Resort property in 2017.

12. Before their employment with Defendant, WYNDHAM, Plaintiff Sales Representatives were employed in various timeshare sales positions around the country.

13. Plaintiff Sales Representatives were recruited by Vice President Richard Wiczerzak and were enticed by a supposed once-in-a-lifetime opportunity to be part of the opening sales team for Defendant's Clearwater Beach Resort where they were promised yearly profits in excess of Five Hundred Thousand Dollars (\$500,000.00).

14. In reliance on these representations, Plaintiff Sales Representatives left companies and communities in which they had strong, established roots.

15. However, beginning on the first day, and over the course of several months, it became clear to Plaintiffs that the promises which were made to them were empty, as they were earning only a fraction of what was represented to them by Mr. Wiczerzak, while at the same time being forced to engage in, or otherwise resist, unlawful sales practices at the direction of their Supervisors. After a training course which Plaintiffs participated in, Supervisor Narain advised Plaintiffs to "forget everything [they] just learned" as they would never make a sale that way. Instead, the Supervisors instructed them on various unlawful, unethical, and fraudulent means by which to sell Defendant, WYNDHAM's, timeshares.

Violations of Laws, Rules, or Regulations

16. Supervisors Narain and Pinta were engaged in the unlicensed practice of real estate, in violation of Fla. Stat. 475.42(1)(a), (c), & (l), by directly making sales of timeshares to purchasers.

17. Supervisors hired non-Plaintiff sales representatives who engaged in the practice of real estate but were not licensed to practice real estate in the State of Florida or elsewhere, in violation of Fla. Stat. 475.42(1)(a), (c), & (l). These employees were paid hourly wages higher than those of the Plaintiffs, who were licensed; received monthly wage increases if they met their sales expectations; and they were often placed before the Plaintiffs on the “rotation wheel” so they would receive tours before the Plaintiffs.

18. Supervisors regularly instructed Plaintiffs to intentionally confuse and mislead buyers or “wear them down” so they would buy property, in violation of Fla. Stat. 475.42(1)(e).

19. Supervisors directed Plaintiffs to misrepresent the price of the timeshare through the use of points charts (See Exhibits A and B). Specifically, the “Clearwater Beach Resort Points Chart” (attached hereto as Exhibit A; hereinafter “CBR Points Chart”) accurately depicts the cost and value of points buyers can buy from Defendant to use at the Clearwater Beach Resort. However, Supervisors removed the CBR Points Chart from the sales floor and instructed Plaintiffs to instead fraudulently show buyers the “RCI Points Chart” (attached hereto as Exhibit B), which depicts substantially cheaper points—in many cases less than half of the actual cost. Supervisors engaged in this conduct themselves as well. This practice was in violation of Fla. Stat. 475.42(1)(e).

20. Supervisors regularly instructed Plaintiffs to fraudulently advise buyers that the timeshare was an investment and its value would increase over time, in violation of Fla. Stat. 475.42(1)(e).

21. Supervisors regularly instructed Plaintiffs to advise potential buyers that the property they would be touring was not a timeshare, in violation of Fla. Stat. 475.42(1)(e).

22. Supervisors regularly instructed Plaintiffs to fraudulently misrepresent to buyers the effect of completing a credit application, which was a necessary step in the sale process as it was required to show buyers the pricing. To wit, Plaintiffs were instructed to advise buyers that the credit application would not hurt their credit score, that it would only be a “soft hit,” or that it was not a credit application at all. Supervisors also personally engaged in this conduct directly with the buyers. This practice was in violation of Fla. Stat. 475.42(1)(e).

23. Supervisors regularly instructed Plaintiffs to fraudulently alter the buyers’ income level on their credit application if needed for them to be approved for credit financing. Supervisors also personally engaged in this activity. This practice was in violation of Fla. Stat. 817.03 and/or 817.16.

24. Supervisors regularly instructed Plaintiffs to fraudulently advise buyers that Defendant, WYNDHAM, would buy back their property if they were not satisfied with it, in violation of Fla. Stat. 475.42(1)(e).

25. Supervisors intentionally preyed upon the elderly in the use of their unethical and illegal sales tactics, in violation of Fla. Stat. 475.42(1)(e).

26. Out-of-state residents from certain states were not eligible to purchase timeshares at Defendant, WYNDHAM’s, Clearwater Beach Resort. Thus, to sell to these buyers, Supervisors directed Plaintiffs to fraudulently advise such buyers that they could purchase a product called

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