

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

ALVIN LUNDY, on behalf of himself
and on behalf of all others similarly
situated,

Plaintiff,

v.

Case No. 8:19-cv-02202-T-02CPT

PALL CORPORATION,

Defendant.

ORDER

After due consideration of the Defendant's motion to dismiss, Dkt. 12, the response in opposition, Dkt. 15, and the entire file, the Court denies the motion.

To survive a Rule 12(b)(6) motion to dismiss, a plaintiff must plead sufficient facts to state a claim that is "plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citation omitted). In considering the motion, the court accepts all factual allegations in the complaint as true and construes them in the light most favorable to the plaintiff. *Pielage v. McConnell*, 516 F.3d 1282, 1284 (11th Cir. 2008) (citation omitted).

Here, the Plaintiff has satisfied the low bar of notice pleading. Plaintiff pled that he was an employee of Defendant and that Defendant was engaged in

interstate commerce. Dkt. 1 ¶¶ 14 & 17. He further pled that he and other members of the class worked an excess of 40 hours within a work week and were entitled to, but not paid, overtime. *Id.* ¶¶ 26 & 28. Plaintiff pled that he and other “employees were required to clock in as soon as they entered Defendant’s workplace.” *Id.* ¶ 32. Later, Defendant would manually decrease the amount of time Plaintiff and other employees worked and only pay them for this lesser amount. *Id.* ¶¶ 28 & 34. When Plaintiff raised concerns about this with Defendant, he was told his pay was being reduced under the Defendant’s “idle time policy.” *Id.* ¶¶ 29–33. Plaintiff alleges this manual altering of the records resulted in Plaintiff and other employees not receiving payment for all their hours worked in violation of the Fair Labor Standards Act. *Id.* ¶¶ 35 & 36.

As such, Plaintiff met the low bar required to plead sufficient facts to state a claim that is “plausible of its face.” *Iqbal*, 556 U.S. at 678. The Court denies Defendant’s motion to dismiss. Defendant is instructed to respond to Plaintiff’s complaint within fourteen (14) days.

DONE AND ORDERED at Tampa, Florida, on November 13, 2019.

/s/ William F. Jung
WILLIAM F. JUNG
UNITED STATES DISTRICT JUDGE

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Counsel of Record