

# WAGE VIOLATION LAWSUIT AGAINST NISSAN NORTH AMERICA, INC.

## COMPLAINT SUMMARY

### SUMMARY DEFINITIONS

- *Class Members* – ALL current and former Nissan mechanics, technicians and/or maintenance personnel employed any time from 2014 through present.
- *Fair Labor Standards Act (FLSA)* – as defined by the U.S. Department of Labor, “establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in Federal, State, and local governments.” <https://www.dol.gov/agencies/whd/flsa>
- *Florida’s Minimum Wage Act* – requires that all “employers shall pay employees a minimum wage at an hourly rate of \$6.15 for all hours worked in Florida.” <https://www.flsenate.gov/Laws/Statutes/2018/448.110>
- *Unpaid Wages* – means the difference between the wages actually paid to an employee and the wages required to be paid to the employee including all compensation for services.

### CLASS AND COLLECTIVE ACTION COMPLAINT

On September 3, 2020, éclat Law LLP filed a Class and Collective Action Complaint against Nissan North America, Inc. (“Nissan”). This complaint was filed on behalf of all current and former Nissan mechanics, technicians, and maintenance personnel employed from 2014 through present time - Class Members. The allegations against Nissan include violations of the *Fair Labor Standards Act* and *Florida’s Minimum Wage Act*, as well as other violations of state wage and labor laws.

#### I. OVERVIEW

Nissan created an unlawful compensation program—manipulating traditional “piece-rate” or “flat-rate” programs—to short-pay employees for work performed for the company. Nissan has employed over 1,500 individuals who were compensated by the company using this unlawful compensation program.

This unlawful compensation program has denied employees regular hourly rate for all hours worked, time-and-a-half of their regular hourly rate for all hours worked in excess of forty hours, and compensation for statutory minimum wage for all hours worked per week during one or more work weeks.

As a result of Nissan’s unlawful payment scheme, former technicians, mechanics, and service personnel (“Class Members”) are owed unpaid wages for their hard work. Nissan has also failed to properly reimburse the Class Members for all business expenses including, but not limited to, the cost to procure and maintain tools, equipment, and supplies necessary to complete their services for the company.

A Class and Collective Action is the best course of action when it comes to this lawsuit. All Class Members can express their specific situation with this case, and it helps those who may not be able to sue Nissan by themselves.

## II. THE DEFENDANT – NISSAN NORTH AMERICA, INC.

Nissan is a company that manufactures and sells Nissan and Infiniti brand cars, sport utility vehicles and pickup trucks as well as provides a variety of maintenance and repair services. Nissan does so through a network of approximately 1,082 Nissan dealers and 211 Infiniti dealers in the United States. In order to keep the company running, Nissan partners controls and directs Nissan dealership, their direct partners. Based on specific criteria, once Nissan approves of the potential dealership partner, they enter into an agreement created by Nissan to operate the dealerships. Although Nissan's business partners oversee their specific Nissan dealership, Nissan is still in complete control of all corporate policies, including but not limited to, human resources, employee benefits and gratuities, compensation policies and procedures, among other policies and procedures related to all employees of each dealership. This includes and all current/former Nissan mechanics, technicians, and/or maintenance personnel (i.e., Class Members).

Nissan is directly responsible and liable for all of the claims mentioned in this complaint and any other that are brought up against them during this lawsuit. Nissan created and forced the implementation of the unlawful compensation program hurting the Class Member employees and is therefore legally responsible for the damages.

## III. NISSAN'S WRONGFUL BUSINESS PRACTICES

Nissan knowingly has violated both federal and state wage and labor laws that deprived proper compensation to all the Class Members. Nissan has failed to properly reimburse the Class Members for services they provided on behalf of the company, as well as expensive tools that the employees have had to pay out of their own pockets to perform their jobs for Nissan's benefit. Additionally, Nissan's system does not account for any extra hours worked on their behalf, such as training or cleaning the dealership shop. Further, Nissan short-pays its employees frequently and docks paychecks without reason.

These policies and systems are being used by Nissan in an effort to decrease expenses, increase profits, and cut corners.

The ways in which Nissan is compensating its employees violates both the *Fair Labor Standard Act* and *Florida's Minimum Wage Act*. These wages that should be going toward the employees are being used as profit and benefit for Nissan. Nissan has also failed to keep accurate and up to date employee records indicating hours worked by its employees. Nissan and its associated partners, agents, affiliates, subsidiaries, and representatives are aware of the fact that they are using unlawful policies and procedures to compensate the company's employees.

## IV. CAUSES OF ACTION

### 1. VIOLATIONS OF FAIR LABOR STANDARDS ACT, 29 U.S.C. § 201 *et. seq.*: (COLLECTIVE ACTION BY COLLECTIVE ACTION MEMBERS)

- Nissan is being sued for violations of this federal law for failure to pay he wages earned by the employees and for failure reimburse for the costly tools purchased to complete work on behalf of Nissan.

**2. VIOLATIONS OF FLORIDA’S MINIMUM WAGE ACT, Fla. Stat. § 448.110.  
(CLASS ACTION BY CLASS ACTION MEMBERS)**

- Similar to the federal law, the state of Florida has its own wage laws. Nissan is being sued for violations of this state law for failure to pay the wages earned by the employees.

**3. FAILURE TO COMPLY WITH 29 C.F.R. § 531.35 “FREE AND CLEAR” PAYMENT;  
“KICKBACKS.”  
(CLASS ACTION BY CLASS ACTION MEMBERS)**

- Related to the first cause of action, Nissan violates this federal law because its failure to reimburse employees for the costly tools purchased on their behalf cuts into the minimum wages of the employees.

**4. UNJUST ENRICHMENT**

**(CLASS ACTION BY CLASS ACTION MEMBERS)**

- This is an alternative request and is based on the “common law”. Here, we allege that Nissan received benefits from employees that they need to be compensated for (examples: working without payment, purchasing tools on their behalf, undergoing training, cleaning the dealership, dealing with customers, etc.)

**PRAYER FOR RELIEF**

Class Members and those similarly situated to Mr. Ayala, request that they be awarded past wages, attorneys’ fees paid, and other relief the Court sees right and just.

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**JURY TRIAL DEMANDED**

Class Members request a trial by jury on all issues triable.

Class and Collective Action submitted September 3, 2020:

**éclat Law, LLP**

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