

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION**

CARL BAXTER,

Plaintiff,

v.

CASE NO.:

AMERICANS FOR PROSPERITY CO., and  
IC COMPLIANCE LLC, d/b/a TALENTWAVE,

Defendants.

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**COMPLAINT AND JURY TRIAL DEMAND**

1. This is an action for race discrimination under the Civil Rights Act of 1866, 42 U.S.C. § 1981 (“Section 1981”), and for wage theft/unpaid wages (including minimum wages).

**JURISDICTION AND VENUE**

2. This Court has federal question jurisdiction over this action pursuant to 28 U.S.C. § 1331 in that this case arises under federal laws, specifically Section 1981 and the Fair Labor Standards Act.

3. This Court has supplemental jurisdiction under 28 U.S.C. § 1367 over the wage theft/unpaid wages claim, which is so related to claims in the action within such original jurisdiction that it forms part of the same case or controversy under Article III of the United States Constitution.

4. Venue is proper in this Court because the unlawful discrimination and unpaid wages (including minimum wages) giving rise to the claims herein occurred

within this judicial district, and the Defendants are located in this judicial district.

5. At all times material, Plaintiff is and was a resident of Lee County, Florida.

6. Defendant Americans for Prosperity Co. (“AFP”) is a non-profit political advocacy group headquartered in Washington, D.C., conducting business in Lee County, Florida, and with a registered agent for its Florida operations located at **Corporation Service Company, 201 Hays Street, Tallahassee, FL 32301-2525.**

7. Defendant IC Compliance LLC, d/b/a TalentWave (“TalentWave”), is a foreign limited liability staffing company headquartered in Pennsylvania, conducting business in Lee County, Florida, and with a registered agent for its Florida operations located at **Corporation Service Company, 201 Hays Street, Tallahassee, FL 32301-2525.**

8. Defendants AFP and TalentWave jointly controlled Plaintiff’s terms and conditions of employment, were joint employers and a single integrated employer of Plaintiff and will be referred to collectively as “Defendants.”

### **FACTUAL ALLEGATIONS**

9. Plaintiff is an African-American businessman who is active in local politics and is, among other things, the President of the Republican Club of North & East Fort Myers.

10. On or about June 14, 2023, Defendants hired Plaintiff as a part-time Grassroots Associate in Lee County, Florida. By doing so, Plaintiff and Defendants

entered into a verbal employment agreement, which is a contract for purposes of Section 1981 and common law (“Contract”).

11. Pursuant to the Contract, Defendants had a duty to compensate Plaintiff at an hourly rate of \$20.00 (with weekly pay frequency) and to pay Plaintiff for mileage reimbursement.

12. As a Grassroots Associate, Plaintiff’s job duties consisted of canvassing neighborhoods to talk with voters about AFP-selected policy issues and driving to and from those neighborhoods. Plaintiff performed these duties from June 14, 2023 through June 26, 2023.

13. Throughout his brief employment with Defendants, Plaintiff’s job performance as a Grassroots Associate was exemplary.

14. Early in Plaintiff’s tenure, AFP’s Deputy Director Grassroots, Tim Hennessy, met Plaintiff at the Oasis restaurant in downtown Ft. Myers and offered Plaintiff \$500 in bribe money to provide “dirt” on Cape Coral councilmember, Patty Cummings. Plaintiff declined. AFP’s goal was to stop President Donald J. Trump from winning the Republican nomination in the 2024 presidential primaries and, locally, to oppose politicians who support President Trump.

15. On June 26, 2023, Plaintiff complained via telephone to his supervisor, Roxanne Buckels, about not being properly compensated or getting credit for all the hours he worked and for all the doors that he knocked on.

16. Ms. Buckels, who is white, then proceeded to call Plaintiff a “slave” and demanded that he confirm he is a “slave,” stating as follows:

I know you are doing the work and I can see the doors that you are hitting on my iPad on my side. **At least you are working as a slave (sarcastically) but at least you are getting paid, many slaves today do get paid, many used to never get paid. Are you a slave?**

17. Plaintiff was highly offended and demanded to speak with Ms. Buckell's immediate supervisor, Mr. Hennessy (who previously had offered Plaintiff the \$500 bribe money for dirt on Patty Cummings).

18. At this point, Ms. Buckels arranged a three-way conference call with Plaintiff and Mr. Hennessy (who is white), during which the aforesaid issues were discussed.

19. A few minutes later, Plaintiff received another three-way conference call from Mr. Hennessy and AFP's Operations Manager for Florida, Jamie Franz (who is white), who at that time terminated Plaintiff's employment without notice, effective immediately.

20. Plaintiff had reported his time worked and his mileage to management. Ms. Buckels admitted she knew he was performing the work through GPS data retrieved and recorded on her iPad.

21. After his termination, Plaintiff has asked Defendants to pay his unpaid wages and mileage reimbursement. Yet, Defendants have never paid Plaintiff for the time he spent performing work for them and they never reimbursed him for his mileage.

22. Plaintiff has been required to retain the undersigned counsel to represent him in this action and is obligated to pay them a reasonable fee for their

services.

**COUNT I**  
**Race Discrimination in Violation of Section 1981**

23. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs 1 to 22 as if fully restated herein.

24. Section 1981 guarantees freedom from racial discrimination in the making, enforcement, performance, modification, and termination of contracts. Section 1981 also guarantees equal enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

25. Defendants intentionally subjected Plaintiff to disparate treatment race discrimination in violation of Section 1981 by subjecting him to less favorable benefits, privileges, terms, and conditions of employment than those experienced by similarly situated non-African-American employees. Specifically, Defendants refused to pay Plaintiff for his employment services (instead, calling him a “slave”) but did pay similarly situated non-African-American employees for their employment services.

26. On June 26, 2023, Defendants intentionally subjected Plaintiff to disparate treatment race discrimination in violation of Section 1981 by terminating his employment because of his race, immediately after calling him a “slave” and demanding that he confirm he is a “slave.”

27. By intentionally subjecting him to less favorable benefits, privileges, terms, and conditions of employment and by terminating Plaintiff’s employment

because of race, Defendants denied Plaintiff equal enjoyment of all benefits, privileges, terms, and conditions of the employment and contractual relationships.

28. Through Defendants' conduct set forth herein, Defendants intentionally deprived Plaintiff of the same rights as are enjoyed by white citizens to the creation, performance, enjoyment, and all benefits and privileges, of their contractual employment relationship with Defendants, in violation of 42 U.S.C. §1981.

29. The above conduct by Defendants constitutes discrimination in violation of Section 1981.

30. Defendants' unlawful actions were intentional, willful, malicious and/or done with reckless disregard for Plaintiff's rights.

31. As a proximate result of Defendants' discrimination in violation of Section 1981, Plaintiff has been denied employment opportunities providing substantial compensation and benefits, thereby entitling him to injunctive and equitable monetary relief; and has suffered anguish, humiliation, distress, inconvenience and loss of enjoyment of life because of Defendants' actions, thereby entitling him to compensatory damages.

**WHEREFORE**, Plaintiff requests that this Court:

1. Enter a declaratory judgment that the practices complained of in this complaint are unlawful and violate Section 1981;
2. Grant all injunctive relief necessary to bring Defendants into compliance with Section 1981;

3. Order Defendants to pay the wages, salary, employment benefits, and other compensation denied or lost to Plaintiff to date by reason of Defendants' unlawful actions, in amounts to be proven at trial;
4. Order Defendants to pay compensatory damages for Plaintiff's emotional pain and suffering, in an amount to be proven at trial;
5. Order Defendants to pay exemplary and punitive damages;
6. Order Defendants to pay attorneys' fees and costs of the action;
7. Order Defendants to pay interest at the legal rate on such damages as appropriate, including pre- and post-judgment interest; and
8. Grant any further relief that the Court deems just and proper.

**COUNT II**  
**Retaliation in Violation of Section 1981**

32. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs 1 to 22 as if fully restated herein.

33. Section 1981 guarantees freedom from racial discrimination in the making, enforcement, performance, modification, and termination of contracts. Section 1981 also protects against retaliation based on complaints of discrimination.

34. Plaintiff engaged in protected activity under Section 1981 by complaining about unlawful race discrimination perpetrated by Defendants.

35. On June 26, 2023, Defendants intentionally subjected Plaintiff to unlawful retaliation in violation of Section 1981 by terminating his employment

because of his protected activity.

36. Through Defendants' conduct set forth herein, Defendants intentionally deprived Plaintiff of the same rights as are enjoyed by white citizens to the creation, performance, enjoyment, and all benefits and privileges, of their contractual employment relationship with Defendants, in violation of 42 U.S.C. §1981.

37. The above conduct by Defendants constitutes unlawful retaliation in violation of Section 1981.

38. Defendants' unlawful actions were intentional, willful, malicious and/or done with reckless disregard for Plaintiff's rights.

39. As a proximate result of Defendants' retaliation in violation of Section 1981, Plaintiff has been denied employment opportunities providing substantial compensation and benefits, thereby entitling him to injunctive and equitable monetary relief; and has suffered anguish, humiliation, distress, inconvenience and loss of enjoyment of life because of Defendants' actions, thereby entitling him to compensatory damages.

**WHEREFORE**, Plaintiff requests that this Court:

1. Enter a declaratory judgment that the practices complained of in this complaint are unlawful and violate Section 1981;
2. Grant all injunctive relief necessary to bring Defendants into compliance with Section 1981;
3. Order Defendants to pay the wages, salary, employment benefits, and



other compensation denied or lost to Plaintiff to date by reason of Defendants' unlawful actions, in amounts to be proven at trial;

4. Order Defendants to pay compensatory damages for Plaintiff's emotional pain and suffering, in an amount to be proven at trial;

5. Order Defendants to pay exemplary and punitive damages;

6. Order Defendants to pay attorneys' fees and costs of the action;

7. Order Defendants to pay interest at the legal rate on such damages as appropriate, including pre- and post-judgment interest; and

8. Grant any further relief that the Court deems just and proper.

**COUNT III**  
**Wage Theft/Unpaid Wages**

40. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs 1 to 22 as if fully restated herein.

41. This is a common law claim for unpaid wages.

42. During his employment with Defendants, Plaintiff earned wages and mileage reimbursement which Defendants promised would be paid to him pursuant to the terms of the Contract.

43. Defendants have refused to pay Plaintiff his earned wages and mileage reimbursement.

44. Defendants did not pay, and Plaintiff is owed, earned wages and mileage reimbursement.

45. Plaintiff's unpaid earned wages and mileage reimbursement

constitute unpaid wages which are owed and payable by Defendants pursuant to Florida Statute Chapter 448 and common law.

46. Defendants, despite Plaintiff's reasonable attempts to obtain payment of these earned monies, has failed and refused to make payment to Plaintiff as required by Florida Statute Chapter 448 and common law.

47. As a result of Defendants' failure to pay earned wages and mileage reimbursement, Plaintiff has suffered damages, including unpaid wages, interest and attorneys' fees.

**WHEREFORE**, Plaintiff requests that this Court:

1. Award damages in the amount of the unpaid wages and mileage reimbursement owed;
2. Order Defendants to pay attorneys' fees and costs pursuant to Fla. Stat. § 448.08;
3. Order Defendants to pay interest at the legal rate on such damages as appropriate, including pre- and post-judgment interest; and
4. Grant any further relief that the Court deems just and proper.

**COUNT IV**  
**Unpaid Minimum Wages - FLSA**

48. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs 1 to 22 as if fully restated herein.

49. Defendants are employers as defined by the Fair Labor Standards Act, as amended, 29 U.S.C. § 216(b), et seq. ("FLSA").

50. At all material times, Defendants were an enterprise covered by the FLSA, and as defined by 29 U.S.C. §203(r) and 203(s) and during all relevant times had at least two employees and had an annual dollar volume of sales or business done of at least \$500,000.

51. Plaintiff was employed by Defendants as an hourly non-exempt employee, performing non-exempt functions.

52. Plaintiff was engaged in interstate commerce during his employment with Defendants.

53. Plaintiff regularly utilized the internet, telephone, and interstate wires while performing his duties as a Grassroots Associate, including submitting and receiving job-related information via an AFP-supplied iPad and communicating with management via telephone over the interstate wires.

54. While performing his duties as a Grassroots Associate, Plaintiff regularly operated a motor vehicle on interstate and other federal highways and distributed flyers and other things which were delivered over state lines.

55. Defendants failed to comply with the FLSA because Plaintiff was not paid any minimum wages as required by the FLSA.

56. Defendants' violations of the FLSA were knowing, willful, and in reckless disregard of the rights of Plaintiff.

57. Defendants did not have reasonable grounds for believing that their acts were not a violation of the FLSA.

58. Plaintiff has suffered harm, including unpaid minimum wages, as a

direct result of Defendants' failure to pay him as required by the FLSA.

**WHEREFORE**, Plaintiff requests that this Court:

1. Award damages to Plaintiff in the amount of the unpaid minimum wages owed;
2. Award liquidated damages pursuant to 29 U.S.C. § 216(b);
3. Award reasonable attorneys' fees and costs pursuant to 29 U.S.C. § 216(b);
4. Award injunctive relief requiring Defendants to comply with the FLSA; and
5. Award all such other relief as the Court deems just and appropriate.

**JURY TRIAL DEMAND**

Plaintiff demands a jury trial on all counts so triable.

Dated: August 26, 2024

Respectfully submitted,

*/s/ Jay P. Lechner* \_\_\_\_\_

**LECHNER LAW**

Jay P. Lechner, Esq.

Florida Bar No.: 0504351

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*Lead Counsel for Plaintiff*

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Carl Baxter

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Jay P Lechner, PA, 201 E. Kennedy Blvd., Ste 412, Tampa FL 33602 813-388-2662

DEFENDANTS

Americans for Prosperity Co., and IC Compliance LLC d/b/a Talentwave

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Contract, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 U.S.C. § 1981. Brief description of cause: Race discrimination

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [ ] No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE: 8/26/24 SIGNATURE OF ATTORNEY OF RECORD: /s/ Jay P. Lechner

FOR OFFICE USE ONLY: RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE