

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

**DONALD CLEMONS, individually and on
behalf of all others similarly situated,**

Plaintiff,

-against-

ENTERPRISE HOLDINGS, INC.,

Defendant.

No: 20-cv-5259

**CLASS ACTION
COMPLAINT**

Donald Clemons (“Plaintiff”), individually and on behalf of all others similarly situated, as class representative, upon personal knowledge as to himself, and upon information and belief as to other matters, alleges as follows:

NATURE OF THE ACTION

1. This lawsuit seeks to recover untimely wage compensation and other damages for Plaintiff and similar drivers and other similar manual labor positions (collectively, “Manual Workers”) who work or have worked as manual workers for Enterprise Holdings, Inc. d/b/a Enterprise Rent-A-Car (“Enterprise” or “Defendant”) in New York State.

2. Headquartered in St. Louis, Missouri, Enterprise is a car rental company with over 8,000 locations worldwide.¹ Founded in 1957, Enterprise has annual revenues of nearly \$22.5 billion and is considered the largest car rental service provider in the world measured by revenue and fleet.²

¹ Enterprise, *About*, available at https://www.enterprise.com/en/about.html?icid=header.learn.company-_-about-_-ENUS.NULL (last visited October 29, 2020)

² Enterprise, *Financial Information*, available at <https://www.enterpriseholdings.com/en/financial-information.html>

3. In New York, Enterprise operates out of John F. Kennedy International Airport (“JFK”).

4. As a Manual Worker, Plaintiff was required to drive vehicles from one Enterprise location to another. According to Defendant’s website, Drivers are responsible for:

- the transporting of fleet cars and vans to and from rental locations, as well as navigating written directions.
- Drive and deliver vehicles locally or out of area as needed, following all rules of the road.
- Deliver customers and vehicles to appropriate destination in a safe and courteous manner.
- Ride with or follow another driver to drop off vehicle(s) or pick up multiple vehicles.
- Organize travel route and ensure vehicle paperwork is accurate and timely.
- May need to communicate via 2-way radio or cellular phone.
- May be asked to clean vehicles.
- Perform miscellaneous job-related duties as assigned.³

5. At all relevant times, Defendant has compensated Plaintiff and all other Manual Workers on a bi-weekly basis.

6. Despite being manual workers, Defendant has failed to properly pay Plaintiff and other Manual Workers their wages within seven calendar days after the end of the week in which these wages were earned.

7. In this regard, Defendant has failed to provide timely wages to Plaintiff and all other similar Manual Workers.

8. Plaintiff brings this action on behalf of himself and all other similar Manual Workers in New York pursuant to Federal Rule of Civil Procedure 23 (“Rule 23”) to remedy violations of the New York Labor Law, Article 6, §§ 191, 195. (“NYLL”).

(last visited October 28, 2020).

³ Exhibit A – Driver position job listing.

THE PARTIES

Plaintiff

Donald Clemons

9. Donald Clemons (“Clemons”) is an adult individual who is a resident of the State of New York.

10. Clemons was employed by Enterprise as a part-time driver from in or around 2001 through March 2020.

11. Clemons is a covered employee within the meaning of the NYLL.

Defendant

Enterprise Enterprises Corp.

12. Enterprise Enterprises Corp. is a foreign business corporation organized and existing under the laws of Missouri.

13. Enterprise Enterprises Corp.’s principal executive office is located at 600 Corporate Park Drive, St. Louis, Missouri 63105.

14. Enterprise Enterprises Corp. was and is a covered employer within the meaning of the NYLL, and at all times relevant, employed Plaintiff and similar employees.

15. Enterprise Enterprises Corp. has maintained control, oversight, and direction over Plaintiff and similar employees, including timekeeping, payroll, and other employment practices that applied to them.

16. Enterprise Enterprises Corp. applies the same employment policies, practices, and procedures to all Manual Workers in its operation, including policies, practices, and procedures with respect to payment of wages.

JURISDICTION AND VENUE

17. This Court has original jurisdiction pursuant to the Class Action Fairness Act of 2005 (“CAFA”), codified at 28 U.S.C. § 1332(d), because the amount in controversy against the Defendant in this matter exceeds the sum or value of \$5,000,000, exclusive of interest and costs.

18. The members of the proposed class are citizens of states different from that of Defendant.

19. There are at least 40 members in the proposed class.

20. Defendant is subject to personal jurisdiction in New York.

21. Venue is proper in the Eastern District of New York pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims occurred in this District, and Defendant conducts business in this District.

NEW YORK CLASS ACTION ALLEGATIONS

22. Plaintiff brings the First and Second Causes of Action, NYLL claims, under Rule 23 of the Federal Rules of Civil Procedure, on behalf of himself and a class of persons consisting of:

All persons who work or have worked as Manual Workers for Enterprise Holdings, Inc. in New York between October 30, 2014 and the date of final judgment in this matter (the “New York Class”).

23. The members of the New York Class are so numerous that joinder of all members is impracticable, and the disposition of their claims as a class will benefit the parties and the Court.

24. There are more than one hundred members of the New York Class.

25. Plaintiff’s claims are typical of those claims that could be alleged by any member of the New York Class, and the relief sought is typical of the relief which would be sought by each member of the New York Class in separate actions.

26. Plaintiff and the New York Class have all been injured in that they have been compensated in an untimely manner due to Defendant's common policies, practices, and patterns of conduct. Defendant's corporate-wide policies and practices affected everyone in the New York Class similarly, and Defendant benefited from the same type of unfair and/or wrongful acts as to each member of the New York Class.

27. Plaintiff is able to fairly and adequately protect the interests of the New York Class and has no interests antagonistic to the New York Class.

28. Plaintiff is represented by attorneys who are experienced and competent in both class action litigation and employment litigation and have previously represented many plaintiff and classes in wage and hour cases.

29. A class action is superior to other available methods for the fair and efficient adjudication of the controversy – particularly in the context of wage and hour litigation where individual class members lack the financial resources to vigorously prosecute a lawsuit against corporate defendants. Class action treatment will permit a large number of similar persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of efforts and expense that numerous individual actions engender.

30. Common questions of law and fact exist as to the New York Class that predominate over any questions only affecting Plaintiff and/or each member of the New York Class individually and include, but are not limited to, the following:

- (a) whether Defendant compensated Plaintiff and the New York Class on a timely basis; and
- (b) whether Defendant failed to furnish Plaintiff and the New York Class with an accurate statement of wages, as required by the NYLL.

PLAINTIFF’S FACTUAL ALLEGATIONS

31. Consistent with their policies and patterns or practices as described herein, Defendant harmed Plaintiff, individually, as follows:

Donald Clemons

32. Clemons was employed by Enterprise as part-time driver from in or around 2001 through March 2020.

33. During his employment, Clemons was based out of Defendant’s location at JFK but transported cars for Defendant throughout the tri-state area.

34. During his employment, over twenty-five percent of Clemons’ duties were physical tasks, including but not limited to: (1) transporting vehicles; and (2) cleaning vehicles.

35. Despite regularly spending more than twenty-five percent of his shift performing these physical tasks, Clemons has been compensated by Defendant on a bi-weekly basis.

36. In this regard, Defendant failed to pay Clemons his wages earned timely as required by NYLL § 191(1)(a).

37. Throughout his employment, Defendant failed to provide Clemons with accurate wage statements as required by the NYLL.

FIRST CAUSE OF ACTION

**New York Labor Law – Failure to Pay Timely Wages
(Brought on behalf of Plaintiff and the New York Class)**

38. Plaintiff realleges and incorporates by reference all allegations in all preceding paragraphs.

39. The timely payment of wages provisions NYLL § 191 and its supporting regulations apply to Defendant and protect Plaintiff and the New York Class.

40. Defendant failed to pay Plaintiff and the New York Class on a timely basis as

required by NYLL § 191(1)(a).

41. Due to Defendant's violations of the NYLL, Plaintiff and the New York Class are entitled to recover from Defendant the amount of their untimely paid wages as liquidated damages, reasonable attorneys' fees and costs, and pre-judgment and post-judgment interest as provided for by NYLL § 198.

SECOND CAUSE OF ACTION

**New York Labor Law – Failure to Provide Accurate Wage Statements
(Brought on behalf of Plaintiff and the New York Class)**

42. Plaintiff realleges and incorporates by reference all allegations in all preceding paragraphs.

43. Defendant failed to supply Plaintiff and the New York Class with an accurate statement of wages with every payment of wages as required by NYLL, Article 6, § 195(3), listing: dates of work covered by that payment of wages; name of employee; name of employer; address and phone number of employer; rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; hourly rate or rates of pay and overtime rate or rates of pay if applicable; the number of hours worked per week, including overtime hours worked if applicable; deductions; and net wages.

44. Due to Defendant's violations of NYLL § 195(3), Plaintiff and the New York Class are entitled to statutory penalties of two hundred fifty dollars for each workday that Defendant failed to provide them with accurate wage statements, or a total of five thousand dollars each, as well as reasonable attorneys' fees and costs as provided for by NYLL, Article 6, § 198.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually, and on behalf of all other similar persons,

respectfully request that this Court grant the following relief:

- A. Certification of this case as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure;
- B. Designation of Plaintiff as representative of the NY Rule 23 Class and counsel of record as Class Counsel;
- C. Liquidated damages permitted by law pursuant to the NYLL.
- D. Statutory penalties of two hundred fifty dollars for each workday that Defendant failed to provide Plaintiff and the NY Rule 23 Class with accurate wage statements, or a total of five thousand dollars each, as provided for by NYLL, Article § 198;
- E. Prejudgment and post-judgment interest;
- F. Reasonable attorneys' fees and costs of the action; and
- G. Such other relief as this Court shall deem just and proper.

Dated: New York, New York
October 30, 2020

Respectfully submitted,

/s/ Brian S. Schaffer

Brian S. Schaffer

FITAPELLI & SCHAFFER, LLP

Brian S. Schaffer

Frank J. Mazzaferro

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*Attorneys for Plaintiff and
the Putative Class*

EXHIBIT A



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Part-Time Driver - Clifton, NJ

Job ID: 326913 Wayne, NJ



APPLY NOW

Overview

Enterprise Rent-A-Car is the largest and fastest growing privately owned automotive rental and leasing company in the U.S. With over 10,000 branch offices worldwide, Enterprise ranks #1 in the Insurance Replacement Market with yearly revenues of over \$26 billion.



SAVED JOBS USA

This is a Part-Time position paying \$11.50/hour
with 25 hours max per week.

The location for this position is~

1316 Main Ave

Clifton NJ 07011

The Northern NJ team transports vehicles in the following areas:

(Bergen, Passaic, Essex, Morris, Warren & Sussex Counties)

As you are considering a position with Enterprise Holdings, we invite you to learn more about our business. Today – and every day – the safety and wellbeing of employees, customers and the communities we serve is our top priority. For the latest on our COVID-19 response, [please click here](#).

Responsibilities

The Part Time Driver is responsible for the transporting of fleet cars and vans to and from rental locations, as well as navigating written directions.

- Drive and deliver vehicles locally or out of area as needed, following all rules of the road
- Deliver customers and vehicles to appropriate destination in a safe and courteous manner
- Ride with or follow another driver to drop off vehicle(s) or pick up multiple vehicles
- Organize travel route and ensure vehicle paperwork is accurate and timely
- May need to communicate via 2-way radio or cellular phone
- May be asked to clean vehicles
- Perform miscellaneous job-related duties as assigned

Equal Opportunity Employer/Disability/Veterans

Qualifications



now or in the future.

- Must be willing to accept hourly compensation of \$11.50 per hour
- Must be within a reasonable commute of no more than 1 hour to store location
- Must be able to understand, read, write and speak English
- Apart from religious observations, must be available to work 25 hour schedule Monday - Fridays from 7:30am to 6:00pm.
- The ability to operate a motor vehicle is an essential function of this position. Applicants must have a valid unrestricted drivers license

New Jersey DMV Requirements:

If you are a first-time driver and under age 21, you must complete the mandatory Graduated Driver License (GDL) program requirements. New Jersey's GDL program introduces driving privileges gradually to first-time drivers and individuals under the age of 21.

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Wayne, New Jersey

Part Time Auto Detailer -Westwood NJ
Wayne, New Jersey

Part Time Auto Detailer -Ridgewood NJ
Wayne, New Jersey

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Part-Time Driver - Linden, NJ (Eastern NJ)

Job ID: 326904 Elizabeth, NJ



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Overview

Enterprise Rent-A-Car is the largest and fastest growing privately owned automotive rental and leasing company in the U.S. With over 8,000 branch offices worldwide, Enterprise ranks #1 in the Insurance Replacement Market with yearly revenues of over \$10 billion.



SAVED JOBS USA

THIS IS A PART TIME POSITION WITH AN AVERAGE OF 25 HOURS/WEEK.

Pay for this position is \$11.50/hour.

This position is located at:

1100 Blancke St.

Linden, NJ 07036

As you are considering a position with Enterprise Holdings, we invite you to learn more about our business. Today – and every day – the safety and wellbeing of employees, customers and the communities we serve is our top priority. For the latest on our COVID-19 response, [please click here](#).

Responsibilities

The Part Time Driver is responsible for the transporting of fleet cars and vans to and from rental locations, as well as navigating written directions.

- Drive and deliver vehicles locally or out of area as needed, following all rules of the road
- Deliver customers and vehicles to appropriate destination in a safe and courteous manner
- Ride with or follow another driver to drop off vehicle(s) or pick up multiple vehicles
- Organize travel route and ensure vehicle paperwork is accurate and timely
- May need to communicate via 2-way radio or cellular phone
- May be asked to clean vehicles
- Perform miscellaneous job-related duties as assigned

Equal Opportunity Employer/Disability/Veterans

Qualifications

- Must be at least 18 years old
- The ability to operate a motor vehicle is an essential function of this position. Applicants must have a valid, unrestricted, NJ driver's license
- Must be able to understand, read, write and speak English



- MUST be willing to drive Enterprise vehicles out of state
- Must be willing to accept starting pay of \$11.50 per hour
- Must be available 7:30am-6pm Monday - Friday

New Jersey DMV Requirements:

First-time drivers or under 21 years old:

If you are a first-time driver or under age 21, you must complete the mandatory Graduated Driver License (GDL) program requirements. New Jersey's GDL program introduces driving privileges gradually to first-time drivers and individuals under the age of 21.

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Part-Time Driver - Stratford, CT

Job ID: 326926 Fairfield, CT



[APPLY NOW](#)

Overview

Enterprise Rent-A-Car is the largest and fastest growing privately owned automotive rental and leasing company in the U.S. With over 8,000 branch offices worldwide, Enterprise ranks #1 in the Insurance Replacement Market with yearly revenues of over \$22 billion.



SAVED JOBS USA

25 HOURS MAX per week

This position is based out of Stratford, CT

Compensation for this position is \$12.25/hr

As you are considering a position with Enterprise Holdings, we invite you to learn more about our business. Today – and every day – the safety and wellbeing of employees, customers and the communities we serve is our top priority. For the latest on our COVID-19 response, [please click here](#).

Responsibilities

The Part Time Driver is responsible for the transporting of fleet cars and vans to and from car sales locations, as well as navigating written directions.

- Drive and deliver vehicles locally or out of area as needed, following all rules of the road
- Deliver customers and vehicles to appropriate destination in a safe and courteous manner
- Ride with or follow another driver to drop off vehicle(s) or pick up multiple vehicles
- Organize travel route and ensure vehicle paperwork is accurate and timely
- May need to communicate via 2-way radio or cellular phone
- May be asked to clean vehicles
- Perform miscellaneous job-related duties as assigned

Equal Opportunity Employer/Disability/Veterans

Qualifications

- Must be at least 18 years old
- The ability to operate a motor vehicle is an essential function of this position. Applicants must have a valid unrestricted driver's license
- Must be authorized to work in the United States and not require work authorization sponsorship by our company for this position now or in the future.
- Must be willing to accept hourly compensation of \$12.25 per hour
- Must be able to understand, read, write and speak English
- Apart from religious observations must be able to work Monday - Friday during the hours of 7:30am to 6:00pm

ENTERPRISE HOLDINGS.

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Part Time Auto Detailer Fairfield, CT

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