

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
Case No.

MARIA AMAYA, and other similarly)
situated individuals,)
)
Plaintiff(s),)
)
v.)
)
NUEVA SAN SALVADOR RESTAURANT)
#4, CORP. d/b/a NUEVA SAN SALVADOR)
RESTAURANT #1, CORP. d/b/a NUEVA)
SAN SALVADOR RESTAURANT #2,)
CORP., NUEVA SAN SALVADOR)
RESTAURANT #3, CORP.; CARLOS)
PORTILLO; and GLORIA PORTILLO,)
)
Defendants.)

COMPLAINT
(OPT-IN PURSUANT TO 29 U.S.C § 216(B))

Plaintiff MARIA AMAYA and other similarly situated individuals sue defendants NUEVA SAN SALVADOR RESTAURANT #4, CORP. d/b/a NUEVA SAN SALVADOR RESTAURANT #1, CORP. d/b/a NUEVA SAN SALVADOR RESTAURANT #2, CORP., NUEVA SAN SALVADOR RESTAURANT #3, CORP.; CARLOS PORTILLO; and GLORIA PORTILLO, and allege:

1. This is an action to recover money damages for unpaid overtime and minimum wages under the laws of the United States. This Court has jurisdiction pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201-219 (Section 216 for jurisdictional placement) (“the Act”).

2. Plaintiff MARIA AMAYA (“Plaintiff”) is a resident of Miami-Dade County, Florida, within the jurisdiction of this Honorable Court. Plaintiff is a covered employee for purposes of the Act.

3. Defendants NUEVA SAN SALVADOR RESTAURANT #4, CORP. d/b/a NUEVA SAN SALVADOR RESTAURANT #1, CORP. d/b/a NUEVA SAN SALVADOR RESTAURANT #2, CORP., NUEVA SAN SALVADOR RESTAURANT #3, CORP. (the “Corporate Defendant”); CARLOS PORTILLO; and GLORIA PORTILLO (the “Individual Defendants”) (collectively, “Defendants”), are a Florida Profit corporation and Florida residents, respectively, having their main place of business in Miami-Dade County, Florida, and at all times material hereto were and are engaged in interstate commerce. The Individual Defendants, upon information and belief, live in Miami-Dade County, Florida.

4. The Corporate Defendant is an enterprise owned or controlled by the Individual Defendants. Plaintiff reserves her right to amend this complaint to allege joint employment or an “integrated enterprise” with respect to the entities known as NUEVA SAN SALVADOR RESTAURANT #1, CORP. d/b/a NUEVA SAN SALVADOR RESTAURANT #2, CORP., and NUEVA SAN SALVADOR RESTAURANT #3, CORP.

5. The Corporate Defendant is under the administration and control of the Individual Defendants.

**COUNT I: WAGE AND HOUR FEDERAL (FLSA)
STATUTORY VIOLATION AGAINST THE CORPORATE DEFENDANT**

6. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1 through 5 above as if set out in full herein.

7. This action is brought by Plaintiff and those similarly situated to recover from the Corporate Defendant unpaid minimum wages and overtime compensation, as well as an additional amount as liquidated damages, costs, and reasonable attorney’s fees under the provisions of 29 U.S.C. § 201 et seq., and also under the provisions of 29 U.S.C. § 207. Section 207(a)(1) of the Act states: “No employer shall employ any of his employees... for a work week

longer than 40 hours unless such employee receives compensation for his employment in excess of the hours above-specified at a rate not less than one and a half times the regular rate at which he is employed.”

8. Section 206(a)(1) of the Act states: “... an employer must pay a minimum wage of \$5.15/hr to an employee who is engaged in commerce...” On July 24, 2007, Federal minimum wage was raised to \$5.85/hr. On July 24, 2008, Federal minimum wage was raised to \$6.55/hr. On July 24, 2009, Federal minimum wage was raised to \$7.25/hr.

9. The Act provides minimum standards that may be exceeded, but cannot be waived or reduced. Employers must comply, for example, with any Federal, State or municipal laws, regulations or ordinances establishing a higher minimum wage or lower maximum workweek than those established under the Act. 29 C.F.R. § 541.4.

10. In Florida, the minimum wage in 2015 and in 2016 was \$8.05 per hour. This rate went up to \$8.10 in 2017 and to \$8.25 in 2018.

11. Jurisdiction is conferred on this Court by Title 28 U.S.C. § 1337 and by Title 29 U.S.C. § 216(b). The Corporate Defendant is and, at all times pertinent to this complaint, was engaged in interstate commerce. At all times pertinent to this complaint, the Corporate Defendant operated as an organization which sells and/or markets its services and/or goods to customers from throughout the United States and from outside of the United States, and also provides its services for goods sold and transported from across state lines of other states, and the Corporate Defendant obtains and solicits funds from non-Florida sources, accepts funds from non-Florida sources, uses telephonic transmissions going over state lines to do their business, transmit funds outside the State of Florida, and otherwise regularly engages in interstate commerce, particularly with respect to its employees and customers. Upon information and

belief, the annual gross revenue of the Corporate Defendant was at all times material hereto in excess of \$500,000.00 per annum, and/or Plaintiff and those similarly situated, by virtue of working in interstate commerce, otherwise satisfy the Act's requirements.

12. By reason of the foregoing, the Corporate Defendant is and was, during all times hereafter mentioned, an enterprise engaged in commerce or in the production of goods for commerce as defined in §§ 3(r) and 3(s) of the Act and/or Plaintiff and those similarly situated were engaged in interstate commerce for the Corporate Defendant. The Corporate Defendant's business activities involve those to which the Act applies. The Corporate Defendant is a Salvadorian restaurant and, through its business activity, affects interstate commerce. Plaintiff's work for the Corporate Defendant likewise affects interstate commerce. Plaintiff was employed by the Corporate Defendant as a server for the Corporate Defendant's business. As a server, Plaintiff was a "tipped" employee.

13. While employed by the Corporate Defendant, Plaintiff routinely worked in excess of 40 hours per week without being compensated at a rate of not less than one and one half times the regular rate at which he was employed. Plaintiff was employed as a server, performing the same or similar duties as that of those other similarly situated waiters whom Plaintiff observed working in excess of 40 hours per week without overtime compensation.

14. The Corporate Defendant shared Plaintiff's and similarly situated servers' tips with non-tipped employees such as delivery drivers.

15. In addition, the Corporate Defendant routinely required Plaintiff to attend mandatory meetings, for which it either did not compensate Plaintiff at all, or for which it paid Plaintiff her minimum wage minus \$3.02 per hour.

16. In addition, Plaintiff, on a weekly basis, worked an average of 50 hours per week, but was never compensated for any overtime.

17. Plaintiff seeks to recover for unpaid minimum and overtime wages accumulated from the date of hire and/or from 3 (three) years preceding the date of the filing of this complaint.

18. Whether the Corporate Defendant applied a “tip credit” or not to Plaintiff’s pay is irrelevant because the Corporate Defendant never properly paid minimum wage or overtime wages to Plaintiff.

19. If the Corporate Defendant claims “tip credit,” such credit is unavailing because the Corporate Defendant failed to comply with the reduced minimum wage allowed for tipped employees. Therefore, Plaintiff is entitled to be paid the full minimum wage for all hours he worked. *See Ash v. Sambodromo, LLC*, 676 F. Supp. 2d 1360, 1369 (S.D. Fla. 2009) (“Unless the employer satisfies its burden of showing the applicability of the tip credit, the employee is entitled to the full minimum wage for every hour worked”).

20. A tip is the sole property of the tipped employee regardless of whether the employer takes a tip credit. An employer is prohibited from using an employee’s tips for any reason other than as a credit against its minimum wage obligation to the employee, i.e., “tip credit” or in furtherance of a valid tip pool.

21. Where a tipped employee is required to contribute to a tip pool that includes employees who do not customarily and regularly receive tips, the employee is owed all tips he or she contributed to the pool and the full minimum wage.

22. Prior to the completion of discovery and to the best of Plaintiff's knowledge, at the time of the filing of this complaint, Plaintiff's good faith estimate of her unpaid wages is as follows:

a. Minimum Wages

- i. From May 7, 2015 through December 31, 2015 (34 weeks)
 $\$8.05 \times 50$ (approximate number of hours worked per week) =
 $\$402.50 - \145 (approximate number of moneys paid by defendant) = $\$257.50 \times (34 \text{ weeks}) = \$8,755$
- ii. From January 1, 2016 through December 31, 2016 (52 weeks)
 $\$8.05 \times 50$ (approximate number of hours worked per week) =
 $\$402.50 - \145 (approximate number of moneys paid by defendant) = $\$257.50 \times (52 \text{ weeks}) = \$13,390$
- iii. From January 1, 2017 through December 31, 2017 (52 weeks)
 $\$8.10 \times 50$ (approximate number of hours worked per week) =
 $\$405 - \145 (approximate number of moneys paid by defendant) =
 $\$260 \times (52 \text{ weeks}) = \$13,520$
- iv. From January 1, 2018 through May 7, 2018 (18 weeks)
 $\$8.25 \times 50$ (approximate number of hours worked per week) =
 $\$412.50 - \145 (approximate number of moneys paid by defendant) = $\$267.50 \times (18 \text{ weeks}) = \$4,815$

b. Overtime Wages

- i. From May 7, 2015 through December 31, 2015 (34 weeks)
 $\$8.05 \times .5 \times 10$ (approximate number of overtime worked per week) = $\$40.25 \times (34 \text{ weeks}) = \$1,368.50$
- ii. From January 1, 2016 through December 31, 2016 (52 weeks)
 $\$8.05 \times .5 \times 10$ (approximate number of overtime worked per week) = $\$40.25 \times (52 \text{ weeks}) = \$2,093$
- iii. From January 1, 2017 through December 31, 2017 (52 weeks)
 $\$8.10 \times .5 \times 10$ (approximate number of overtime worked per week) = $\$40.5 \times (52 \text{ weeks}) = \$2,106$
- iv. From January 1, 2018 through May 7, 2018 (18 weeks)
 $\$8.25 \times .5 \times 10$ (approximate number of overtime worked per week) = $\$41.25 \times (18 \text{ weeks}) = \742

c. Total Unpaid Wages: \$46,789.50

d. Liquidated Damages: \$46,789.50

e. Grand Total: \$93,579

23. At all times material hereto, the Corporate Defendant failed to comply with Title 29 U.S.C. §§ 201-219 and 29 C.F.R. § 516.2 and § 516.4 et seq. in that Plaintiff, and those similarly situated, performed services and worked in excess of the maximum hours provided by the Act but no provision was made by the Corporate Defendant to properly pay them at the rate of time and one half for all hours worked in excess of 40 hours per workweek as provided in the Act. Furthermore, the Corporate Defendant did not abide by the Federal law requiring that employees be paid at least a minimum wage. The additional persons who may become Plaintiffs in this action are weekly-paid employees and/or former employees of the Corporate Defendant who are and who were subject to the unlawful payroll practices and procedures of the Corporate Defendant and were not properly paid minimum wages or paid time and one half of their regular rate of pay for all overtime hours and straight time hours worked in excess of 40 per week.

24. The Corporate Defendant knew and/or showed reckless disregard of the provisions of the Act concerning the payment of minimum and overtime wages and remains owing Plaintiff and those similarly situated these minimum and overtime wages since the commencement of Plaintiff's and those similarly situated employees' employment with the Corporate Defendant as set forth above, and Plaintiff and those similarly situated are entitled to recover double damages. The Corporate Defendant never posted any notice, as required by Federal Law, to inform employees of their federal rights to overtime and minimum wage payments.

25. The Corporate Defendant willfully and intentionally refused to pay Plaintiff minimum and overtime wages as required by the laws of the United States as set forth above and remains owing Plaintiff these minimum and overtime wages since the commencement of Plaintiff's employment with the Corporate Defendant as set forth above.

26. The Corporate Defendant willfully and intentionally failed to keep records of all hours worked by Plaintiff and of all payments made to Plaintiff pursuant to the Act and the Code of Federal Regulations.

27. Plaintiff has retained the law offices of the undersigned attorney to represent her in this action and is obligated to pay a reasonable attorneys' fee.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff and those similarly situated request that this Honorable Court:

A. Enter judgment for Plaintiff and others similarly situated and against the Corporate Defendant on the basis of the Corporate Defendant's willful violations of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. and other Federal Regulations; and

B. Award Plaintiff actual damages in the amount shown to be due for unpaid minimum wages and overtime compensation for hours worked in excess of forty per week, with interest; and

C. Award Plaintiff an equal amount in double damages/liquidated damages; and

D. Award Plaintiff reasonable attorneys' fees and costs of suit; and

E. Grant such other and further relief, as this Court deems equitable and just and/or available pursuant to Federal Law.

JURY DEMAND

Plaintiff and those similarly situated demand trial by jury of all issues triable as of right by jury.

**COUNT II: WAGE AND HOUR FEDERAL (FLSA)
STATUTORY VIOLATION AGAINST THE INDIVIDUAL DEFENDANTS**

28. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1 through 27 above as if set out in full herein.

29. At the times mentioned, the Individual Defendants were, and are now, the President/Officer/Director and/or owner of the Corporate Defendant. The Individual Defendants were employers of Plaintiff and others similarly situated within the meaning of Section 3(d) of the Act in that the Individual Defendants acted directly in the interests of the Corporate Defendant in relation to its employees, including Plaintiff and others similarly situated. The Individual Defendants had operational control of the business and are jointly and severally liable for Plaintiff's damages.

30. The Individual Defendants were and are, at all times relevant, persons in control of the Corporate Defendant's financial affairs and could cause the Corporate Defendant to compensate (or not to compensate) its employees in accordance with the Act.

31. The Individual Defendants willfully and intentionally caused Plaintiff not to receive minimum wage or overtime compensation as required by the laws of the United States as set forth above and remain owing Plaintiff these minimum wage and overtime wages since the commencement of Plaintiff's employment with the Corporate Defendant as set forth above.

32. Plaintiff has retained the law offices of the undersigned attorney to represent her in this action and is obligated to pay reasonable attorneys' fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff and those similarly situated request that this Honorable Court:

A. Enter judgment for Plaintiff and others similarly situated and against the Individual Defendants on the basis of the Individual Defendants' willful violations of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. and other Federal Regulations; and

B. Award Plaintiff actual damages in the amount shown to be due for unpaid wages, with interest plus reimbursement of expenses; and

- C. Award Plaintiff an equal amount in double damages/liquidated damages; and
- D. Award Plaintiff reasonable attorneys' fees and costs of suit; and
- E. Grant such other and further relief, as this Court deems equitable and just and/or available pursuant to Federal Law.

JURY DEMAND

Plaintiff and those similarly situated demand trial by jury of all issues so triable as of right.

Dated: May 30, 2018.

By: /s/ R. Martin Saenz
R. Martin Saenz, Esquire
Fla. Bar No.: 0640166
Email: msaenz@saenzanderson.com
SAENZ & ANDERSON, PLLC
20900 N.E. 30th Avenue, Ste. 800
Aventura, Florida 33180
Telephone: (305) 503.5131
Facsimile: (888) 270.5549

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

MARIA AMAYA, and other similarly situated individuals,

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

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

R. Martin Saenz, Esq.; Saenz & Anderson, PLLC, 20900 NE 30th Ave., Ste. 800, Aventura, FL 33180; (305) 503-5131

DEFENDANTS

NUEVA SAN SALVADOR RESTAURANT #4, CORP. d/b/a NUEVA SAN SALVADOR RESTAURANT #1, CORP. d/b/a NUEVA SAN SALVADOR RESTAURANT #2, CORP., NUEVA SAN SALVADOR

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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, 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)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Fair Labor Standards Act, 29 U.S.C. § 201-219. Brief description of cause: Unpaid wages

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: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE May 30, 2018 SIGNATURE OF ATTORNEY OF RECORD s/ R. Martin Saenz, Esq.

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

MARIA AMAYA, and other similarly situated individuals,

Plaintiff(s)

v.

NUEVA SAN SALVADOR RESTAURANT #4, CORP. d/b/a NUEVA SAN SALVADOR RESTAURANT #1, CORP. d/b/a NUEVA SAN SALVADOR RESTAURANT #2, CORP., NUEVA SAN SALVADO

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) NUEVA SAN SALVADOR RESTAURANT #4, CORP. d/b/a NUEVA SAN SALVADOR RESTAURANT #1, CORP. d/b/a NUEVA SAN SALVA c/o PORTILLO, CARLOS E 1147 NW 22 AVE MIAMI, FL 33125

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: R. Martin Saenz, Esq. Saenz & Anderson, PLLC 20900 NE 30th Ave., Ste. 800 Aventura, FL 33180

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

MARIA AMAYA, and other similarly situated individuals,

Plaintiff(s)

v.

NUEVA SAN SALVADOR RESTAURANT #4, CORP. d/b/a NUEVA SAN SALVADOR RESTAURANT #1, CORP. d/b/a NUEVA SAN SALVADOR RESTAURANT #2, CORP., NUEVA SAN SALVADO

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) PORTILLO, CARLOS E 1147 NW 22 AVE MIAMI, FL 33125

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

R. Martin Saenz, Esq. Saenz & Anderson, PLLC 20900 NE 30th Ave., Ste. 800 Aventura, FL 33180

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

MARIA AMAYA, and other similarly situated individuals,

Plaintiff(s)

v.

NUEVA SAN SALVADOR RESTAURANT #4, CORP. d/b/a NUEVA SAN SALVADOR RESTAURANT #1, CORP. d/b/a NUEVA SAN SALVADOR RESTAURANT #2, CORP., NUEVA SAN SALVADO

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) PORTILLO, CARLOS E 1147 NW 22 AVE MIAMI, FL 33125

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

R. Martin Saenz, Esq. Saenz & Anderson, PLLC 20900 NE 30th Ave., Ste. 800 Aventura, FL 33180

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Former Nueva San Salvador Restaurant Server Sues Over Unpaid Wage Claims](#)
