

1721403

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

Case No.: \_\_\_\_\_

ARNOLD BAROHONA, and all others similarly  
situated under 29 U.S.C. § 216(B),

Plaintiff,

v.

GLADES PARTS COMPANY, INC. d/b/a  
ORIGINAL EQUIPMENT, a Florida Profit  
Corporation,

Defendant.

\_\_\_\_\_ /

**COMPLAINT UNDER 29 U.S.C. § 201, *ET SEQ.*  
(OPT IN PURSUANT TO 29 U.S.C. § 216(B))**

Plaintiff, ARNOLD BAROHONA (“BAROHONA”), on behalf of himself and all others similarly situated under 29 U.S.C. § 216(B), by and through undersigned counsel, files this Complaint against Defendant, GLADES PARTS COMPANY, INC. d/b/a ORIGINAL EQUIPMENT, a Florida Profit Corporation (“GLADES”), and alleges as follows:

1. This is an action under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*
2. At all times material hereto, Plaintiff BAROHONA was a resident of Miami-Dade County, Florida.
3. At all times material hereto, Defendant GLADES was a Florida profit corporation incorporated under the laws of the State of Florida.
4. At all times material hereto, Defendant GLADES was a corporation that regularly transacted business within Miami-Dade County, Florida.

5. At all times material hereto, Defendant GLADES was a corporation that maintained its registered agent in the State of Florida.

6. At all times material hereto, Defendant GLADES was engaged in interstate commerce.

7. At all times material hereto, Defendant GLADES was Plaintiff BAROHONA's employer as defined by 29 U.S.C. 203(d).

8. Plaintiff BAROHONA is a covered employee under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*

9. All acts or omissions giving rise to this dispute occurred in Miami-Dade County, Florida.

**COUNT I - FEDERAL OVERTIME WAGE VIOLATION**

10. Plaintiff BAROHONA re-adopts and incorporates by reference each and every factual allegations set forth in Paragraphs 1 through 9 above, as if set forth herein verbatim.

11. This action is brought by Plaintiff BAROHONA pursuant to 29 U.S.C. § 201, *et seq.*

12. This action is brought as a collective action under 29 U.S.C. § 216(B), as it is believed that the Defendants have employed other similarly situated employees like Plaintiff BAROHONA who have not been paid overtime for work performed in excess of forty (40) hours per work week, from the filing of this complaint back three (3) years.

13. This is an action to recover for Plaintiff BAROHONA, and those similarly situated, from the Defendants unpaid overtime compensation at one-and-one-half times the regular rate of pay at which they were employed, as well as an additional amount of 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.

14. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 as this case is brought pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*

15. Plaintiff BAROHONA worked in sales for the Defendants, from October 1, 2014, through July 7, 2017. His agreed-upon hourly rate of pay in this position was \$17.50/hr.

16. Plaintiff BAROHONA was employed at the Defendant's physical location with the address of 500 W. 83<sup>rd</sup> Street, Hialeah, FL 33014, where it did business under the fictional name "Original Equipment."

17. The goods and materials Plaintiff BAROHONA used and/or handled and/or guarded on a constant and/or continual basis and/or that were supplied to him by the Defendant to use on the job moved through interstate commerce prior to and/or subsequent to Plaintiff BAROHONA's use of the same and, thus, affected interstate commerce.

18. Plaintiff BAROHONA's work for the Defendant was actually in and/or so closely related to the movement of commerce while he worked for the Defendant that the Fair Labor Standards Act applies to Plaintiff's work for the Defendant.

19. The Defendant regularly employed two or more employees for the relevant time period who handled goods or materials that traveled through interstate commerce, or used instrumentalities of interstate commerce, thus making the Defendant's business an enterprise covered under the Fair Labor Standards Act.

20. Upon information and belief, the Defendant GLADES had gross sales or business done in excess of \$500,000 annually for the years 2014, 2015 and 2016.

21. Upon information and belief, the Defendant GLADES's gross sales or business done is expected to exceed \$500,000 for the year 2017.

22. Between October 1, 2014, and July 7, 2017, Plaintiff BAROHONA routinely worked overtime hours for which he did not receive appropriate pay of one-and-one-half times his hourly pay rate as required under 29 U.S.C. § 207. Plaintiff's regular rate of \$17.50/hr. remained the same throughout his employment with Defendant GLADES, but some months into his employment, Defendant GLADES began paying Plaintiff BAROHONA a commission for sales of auto parts.

23. Plaintiff BAROHONA regularly worked from 8:00 a.m. to 5:30 p.m. (a 9.5 hour workday), Monday through Friday, without breaking for lunch. Although he consistently worked these hours, Plaintiff BAROHONA was never paid at one-and-one-half times his regular rate for hours worked in excess of forty (40) per week.

24. Moreover, in or around October, 2015, Plaintiff BAROHONA was asked to work a 5-hour shift every Saturday, from 8:00 a.m. to 1:00 p.m. When he asked his supervisor whether he would be properly compensated for these hours, Plaintiff BAROHONA was informed that he would not be paid any additional compensation for these shifts, not even at his regular rate.

25. After this time, Defendant began making improper and unauthorized deductions from Plaintiff's paychecks.

26. Although the deductions on Plaintiff's paychecks are categorized as "Loans," they do not reflect the repayment of any loan from Defendant to Plaintiff.

27. Instead, these deductions represent Defendant GLADES PARTS COMPANY, INC.'s improper and unlawful attempt to recapture a commission that had been paid to Plaintiff BAROHONA, as part of the terms of his employment. This commission had initially been paid to Plaintiff by Defendant, in connection with a sale of auto parts completed by Plaintiff.

Subsequently, however, the customer who made this purchase failed to pay the Defendant's invoices for those parts, through no fault of the Plaintiff's.

28. The Defendant still owes Plaintiff BAROHONA, and those other employees similarly situated, appropriate overtime wages since the commencement of his employment with the Defendant, as well as the amounts improperly deducted from his paychecks, as set forth above.

29. Upon information and belief, the Defendants failed to keep the requisite time records of all hours worked by Plaintiff BAROHONA, and those other employees similarly situated, and of all payments made to Plaintiff BAROHONA, and those other employees similarly situated, pursuant to the Fair Labor Standards Act.

30. Upon information and belief, Defendant GLADES' failure to pay proper overtime wages to Plaintiff BAROHONA was knowing and willful, and reflects a systemic practice at GLADES.

31. Plaintiff BAROHONA has retained the undersigned law offices to represent him in this action, and is obligated to pay a reasonable attorney's fee.

**WHEREFORE**, Plaintiff BAROHONA, and those similarly situated, demand judgment against the Defendant for violation of the Fair Labor Standards Act; request an award of actual damages in the amount to be shown to be due for unpaid overtime wages for hours worked in excess of forty (40) per work week, with interest; request an award of actual damages for unlawful deductions taken from Plaintiff BAROHONA'S paycheck, with interest; request awards of equal amounts in double/liquidated damages, with interest, for each of the foregoing; request an award of reasonable attorney's fees and costs of the instant suit; and request all other relief the court deems equitable and just.

**COUNT II - RETALIATION UNDER FAIR LABOR STANDARDS ACT**

32. Plaintiff BAROHONA re-adopts and incorporates by reference each and every factual allegations set forth in Paragraphs 1 through 31 above as if set forth herein verbatim.

33. In or around October, 2015, Plaintiff BAROHONA complained to the Defendant about the fact he had not been paid his overtime pay appropriately under the Fair Labor Standards Act, and that he was going to be required to work Saturday shifts without any additional compensation. In response, Plaintiff BAROHONA was told that his alternative was to terminate his employment with Defendant GLADES.

34. After this complaint by Plaintiff BAROHONA, Defendant began making improper and unauthorized deductions from Plaintiff's paychecks.

35. Although the deductions on Plaintiff's paychecks are categorized as "Loans," they do not reflect the repayment of any loan from Defendant to Plaintiff.

36. Instead, these deductions represent Defendant GLADES' improper and unlawful attempt to recapture a commission that had been paid to Plaintiff BAROHONA, as part of the terms of his employment. This commission had initially been paid to Plaintiff by Defendant, in connection with a sale of auto parts completed by Plaintiff. Subsequently, however, the customer who made this purchase failed to pay the Defendant's invoices for those parts, through no fault of the Plaintiff's.

37. Upon information and belief, these improper deductions from Plaintiff BAROHONA's paychecks were the result of his complaints concerning overtime wages, but for which the deductions would not have been made, and were done in retaliation for his having engaged in protected activity.

38. Plaintiff BAROHONA terminated his employment on July 7, 2017, having been constructively discharged by Defendant for the reasons stated herein.

39. The Defendants violated 29 U.S.C. § 215(a)(3) causing Plaintiff BAROHONA damages including, but not limited to lost wages and the amounts of improper deductions from his paychecks, and Plaintiff BAROHONA is entitled to liquidated damages based upon the Defendants' reckless disregard of the provisions of the Fair Labor Standards Act.

**WHEREFORE**, Plaintiff BAROHONA, demands judgment against the Defendant for violation of 29 U.S.C. § 215(a)(3) for his damages; requests an award of his actual damages arising from the adverse actions taken against his employment, with interest; requests an award of an equal amount in double/liquidated damages; an award of reasonable attorney's fees and costs of the instant suit; and for all other relief this Court finds just and proper.

**JURY DEMAND**

40. Plaintiff BAROHONA, and those similarly situated, demand a trial by jury as to all issues so triable.

DATED: July 24, 2017.

Respectfully submitted,

/s/ Robert A. Bouvatte, Jr.  
Robert A. Bouvatte, Jr., Esquire  
Florida Bar No.: 0071525  
[rbouvatte@conroysimberg.com](mailto:rbouvatte@conroysimberg.com)  
Conroy Simberg  
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Hollywood, FL 33021  
(954) 961-1400 Broward  
954-518-1252  
*Attorney for Plaintiff*

JS 44 (Rev. 06/17) FLSD Revised 06/01/2017

**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 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.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

**I. (a) PLAINTIFFS** **ARNOLD BAROHONA**, and all others similarly situated under 29 U.S.C. §216(B) **DEFENDANTS** **GLADES PARTS COMPANY, INC. d/b/a ORIGINAL EQUIPMENT**, a Florida Profit Corporation

**(b)** County of Residence of First Listed Plaintiff **Lee County, FL** (EXCEPT IN U.S. PLAINTIFF CASES)  
County of Residence of First Listed Defendant **Palm Beach County, FL** (IN U.S. PLAINTIFF CASES ONLY)

**(c)** Attorneys (Firm Name, Address, and Telephone Number) **Robert A. Bouvatte, Jr., Conroy Simberg, P.A., 3440 Hollywood Blvd., Second Floor, Hollywood, FL 33021**  
Attorneys (If Known) **unknown**

**(d)** Check County Where Action Arose:  MIAMI-DADE  MONROE  BROWARD  PALM BEACH  MARTIN  ST. LUCIE  INDIAN RIVER  OKEECHOBEE  HIGHLANDS

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

1 U.S. Government Plaintiff  3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant  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	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

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

<b>CONTRACT</b>	<b>TORTS</b>	<b>FORFEITURE/PENALTY</b>	<b>BANKRUPTCY</b>	<b>OTHER STATUTES</b>
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729 (a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander			<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability			<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine			<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability			<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle			<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability			<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice			<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 890 Other Statutory Actions
				<input type="checkbox"/> 891 Agricultural Acts
				<input type="checkbox"/> 893 Environmental Matters
				<input type="checkbox"/> 895 Freedom of Information Act
				<input type="checkbox"/> 896 Arbitration
				<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
				<input type="checkbox"/> 950 Constitutionality of St Statutes

**REAL PROPERTY**

210 Land Condemnation

220 Foreclosure

230 Rent Lease & Ejectment

240 Torts to Land

245 Tort Product Liability

290 All Other Real Property

**CIVIL RIGHTS**

440 Other Civil Rights

441 Voting

442 Employment

443 Housing/Accommodations

445 Amer. w/Disabilities - Employment

446 Amer. w/Disabilities - Other

448 Education

**PRISONER PETITIONS**

**Habeas Corpus:**

463 Alien Detainee

510 Motions to Vacate Sentence

**Other:**

530 General

535 Death Penalty

540 Mandamus & Other

550 Civil Rights

555 Prison Condition

560 Civil Detainee - Conditions of Confinement

**LABOR**

710 Fair Labor Standards Act

720 Labor/Mgmt. Relations

740 Railway Labor Act

751 Family and Medical Leave Act

790 Other Labor Litigation

791 Empl. Ret. Inc. Security Act

**PROPERTY RIGHTS**

820 Copyrights

830 Patent

835 Patent - Abbreviated New Drug Application

840 Trademark

**SOCIAL SECURITY**

861 HIA (1395ff)

862 Black Lung (923)

863 DIWC/DIWW (405(g))

864 SSID Title XVI

865 RSI (405(g))

**FEDERAL TAX SUITS**

870 Taxes (U.S. Plaintiff or Defendant)

871 IRS—Third Party 26 USC 7609

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

1 Original Proceeding  2 Removed from State Court  3 Re-filed (See VI below)  4 Reinstated or Reopened  5 Transferred from another district (specify)  6 Multidistrict Litigation Transfer  7 Appeal to District Judge from Magistrate Judgment  8 Multidistrict Litigation - Direct File  9 Remanded from Appellate Court

**VI. RELATED/RE-FILED CASE(S)** (See instructions): a) Re-filed Case  YES  NO b) Related Cases  YES  NO

**JUDGE:** \_\_\_\_\_ **DOCKET NUMBER:** \_\_\_\_\_

**VII. CAUSE OF ACTION** Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):  
Action for unpaid overtime wages (29 U.S.C. Section 207) and unlawful retaliation (29 U.S.C. Section 215).

LENGTH OF TRIAL via 4 days estimated (for both sides to try entire case)

**VIII. REQUESTED IN COMPLAINT:**  CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** \_\_\_\_\_ **CHECK YES only if demanded in complaint:**

**JURY DEMAND:**  Yes  No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE  
DATE **July 25, 2017** SIGNATURE OF ATTORNEY OF RECORD \_\_\_\_\_



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

UNITED STATES DISTRICT COURT

for the
Southern District of Florida

ARNOLD BAROHONA, and all other similarly
situated under 29 U.S.C. §216(B)

Plaintiff(s)

v.

GLADES PARTS COMPANY, INC. d/b/a ORIGINAL
EQUIPMENT, a Florida Profit Corporation,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) GLADES PARTS COMPANY, INC.
d/b/a ORIGINAL EQUIPMENT, a Florida Profit Corporation,
c/o Registered Agent, James M. Stewart, Esq.
1211 Plaza Cir.
Singer Island, FL 33404-4716

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:

Robert A. Bouvatte, Esq.,
Conroy, Simberg
3440 Hollywood Blvd., 2nd Floor
Hollywood Florida, 33021

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

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Glades Parts Company Clipped with Unpaid Overtime Class Action](#)

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