

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
CASE NO.:

FREDERICKA V. BLACK
and other similarly-situated individuals,

Plaintiff(s),

v.

APPLE TEN FLORIDA SERVICES INC.,
a/k/a RESIDENCE INN DANIA BEACH

Defendants,

COMPLAINT

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

COMES NOW the Plaintiff FREDERICKA V. BLACK, and other similarly-situated individuals, by and through the undersigned counsel, and hereby sues Defendants APPLE TEN FLORIDA SERVICES, INC., a/k/a RESIDENCE INN DANIA BEACH and individually and alleges:

JURISDICTION VENUES AND PARTIES

1. This is an action to recover money damages for unpaid overtime wages, and retaliation 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 FREDERICKA V. BLACK (hereinafter FREDERICKA V. BLACK, or Plaintiff) is a resident of Miami-Dade County. Plaintiff is a covered employee for purposes of the Act.

3. Defendant APPLE TEN FLORIDA SERVICES, INC., a/k/a RESIDENCE INN DANIA BEACH (hereinafter, RESIDENCE INN DANIA BEACH, or Defendant) is a Florida corporation, having place of business in Broward County, Florida, where Plaintiff worked for Defendant, and at all times material hereto, Defendant was engaged in interstate commerce.
4. All the actions raised in this complaint took place in Broward County, County Florida, within the jurisdiction of this Court.

GENERAL ALLEGATIONS

5. This cause of action is brought by Plaintiff FREDERICKA V. BLACK to recover from Defendants unpaid regular wages, overtime compensation, liquidated damages, costs and reasonably attorney's fees under the provisions of Fair Labor Standards Act, as amended, 29 U.S.C. § 201 *et seq* (the "FLA or the "ACT").
6. Corporate Defendant APPLE TEN FLORIDA SERVICES, INC. operates RESIDENCE INN DANIA BEACH, also known as Residence Inn Fort Lauderdale Airport & Cruise Port, this hotel is located at 4801 Anglers Avenue, Dania Beach, Florida 33312, where Plaintiff worked.
7. Defendant RESIDENCE INN DANIA BEACH, employed Plaintiff FREDERICKA V. BLACK as a non-exempt full-time night shift, hotel employee from approximately September 2015, to October 17, 2017, or 111 weeks.
8. Plaintiff had multiple duties as a night auditor, customer service attendant, housekeeping, security and food and beverage employee. Plaintiff was paid an hourly rate of \$11.75
9. During her time of employment Plaintiff worked the night shift, Five days per week from 11:00 PM to 8:00 AM (9 hours daily), or 45 hours per week.

10. Plaintiff clocked in and out, and she was paid bi-weekly with checks accompanied by paystubs that showed 40 hours worked or less. Plaintiff alleges that management intentionally manipulated time records in order to lower her working hours, and to avoid the payment of overtime hours.
11. Plaintiff regularly and consistently worked in excess of 40 hours every week period, however, she was not paid for every hour worked, and she was not paid for overtime hours.
12. Therefore, Defendants willfully failed to pay Plaintiff overtime at the rate of time and a half her regular rate, for every hour that he worked in excess of forty (40), in violation of Section 7 (a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(a)(1)).
13. Plaintiff complained multiple times about her missing missing regular hours, and missing overtime payments to the General Manager Suria Plante, and to the Assistant Manager Cristal Scott, but Defendant never fixed the problem.
14. On or about October 17, 2017, Defendant fired Plaintiff, due to her complaints about missing working hours, missing overtime payment and due to discriminatory reasons.
15. In the present Complaint, Plaintiff includes only one count of FLSA overtime wage violation for 111 weeks. Plaintiff is not in possession of time and payment records, and she will amend her Complaint to include on count for any unpaid regular hours, when Defendant produce time and payment records.
16. Plaintiff FREDERICKA V. BLACK intends to recover any regular hour, any overtime hour, liquidated damages, retaliatory damages, and any other relief as allowable by law.
17. The additional persons who may become Plaintiffs in this action are employees and/or former employees of Defendants who are and who were subject to the unlawful payroll

practices and procedures of Defendants and were not paid minimum wages and overtime wages at the rate of time and one half of their regular rate of pay for all overtime hours worked in excess of forty.

COUNT I:
WAGE AND HOUR FEDERAL STATUTORY VIOLATION;
FAILURE TO PAY OVERTIME, AGAINST ALL DEFENDANTS

18. Plaintiff FREDERICKA V. BLACK re-adopts each and every factual allegation as stated in paragraphs 1-17 above as if set out in full herein.
19. This cause of action is brought by Plaintiff FREDERICKA V. BLACK as a collective action to recover from Defendants overtime compensation, liquidated damages, costs and reasonably attorney's fees under the provisions of the Fair Labor Standards Act, as amended, 29 U.S.C. § 201 *et seq* (the "FLA or the "ACT"), on behalf of Plaintiff and all other current and former employees similarly situated to Plaintiff ("the asserted class") and who worked in excess of forty (40) hours during one or more weeks on or after September 2015, (the "material time") without being compensated "at a rate not less than one and a half times the regular rate at which he is employed."
20. Defendant RESIDENCE INN DANIA BEACH was and is engaged in interstate commerce as defined in §§ 3 (r) and 3(s) of the Act, 29 U.S.C. § 203(r) and 203(s)(1)(A). Defendant provides lodging services mostly to the tourism and through its business activity, affects interstate commerce. Defendant had more than two employees recurrently engaged in commerce or in the production of goods for commerce, by regularly and recurrently using the instrumentalities of interstate commerce. Defendant uses the instrumentalities of interstate commerce. to accept and solicit funds from non-Florida sources, by using electronic devices to authorize credit card transactions. Upon

information and belief, the annual gross revenue of the Employer/Defendant was at all times material hereto in excess of \$500,000 per annum. By reason of the foregoing, Defendant's business activities involve those to which the Fair Labor Standards Act applies. Therefore, there is FLSA enterprise coverage.

21. Plaintiff and those similarly-situated were employed by an enterprise engage in interstate commerce. Plaintiff and those similarly-situated through their daily activities were regularly participated in interstate commerce. Plaintiff's work was directed to maintain facilities providing hotel services to tourists. Additionally, Plaintiff regularly handled and worked on goods and materials that were moved across State lines at any time in the course of business, Therefore, there is FLSA individual coverage.

22. Defendant RESIDENCE INN DANIA BEACH, employed Plaintiff FREDERICKA V. BLACK as a non-exempt full-time hotel employee from approximately September 2015, to October 17, 2017, or 111 weeks. Plaintiff had an hourly rate of \$11.75 ab hour.

23. While employed by Defendants, Plaintiff worked the night shift a regular schedule of Five days per week, from Monday to Friday; from 11:00 PM to 8:00 AM (9 hours daily). Plaintiff did not take bona-fide lunch periods. Thus, Plaintiff worked a total of 45 hours every week.

24. Plaintiff always worked more than 40 hours every week. However, Defendants paid Plaintiff for 40 hours or less. Plaintiff alleges that her time records were manipulated by the management to reflect less hours worked, and to avoid the payment of overtime hours.

25. Plaintiff was paid bi-weekly with paystub showing 40 hours or less. Defendants never paid Plaintiff for overtime hours

26. Therefore, Defendants willfully failed to pay Plaintiff overtime at the rate of time and a half her regular rate, for every hour that she worked in excess of forty (40), in violation of Section 7 (a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(a)(1)).

27. The records, if any, concerning the number of hours actually worked by Plaintiff and those similarly situated, and the compensation actually paid to such employees should be in the possession and custody of Defendant. However, upon information and belief, Defendant did not maintain time accurate records of hours worked by Plaintiff and other employees.

28. Defendant violated the record keeping requirements of FLSA, 29 CFR Part 516.

29. 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 unpaid overtime wages is as follows:

* Please note that these amounts are based on a preliminary calculation and that these figures are subjected to modifications as discovery could dictate. Plaintiff will base her calculations considering 40 regular hours as paid. After discovery, Plaintiff will properly adjust her calculations.

a. Total amount of alleged unpaid O/T wages:

Nine Thousand Seven Hundred Seventy-Nine Dollars and 10/100 (\$9,779.10)

b. Calculation of such wages:

Total weeks of employment: 111 weeks

Total relevant weeks of employment: 111 weeks

Total hours worked: 45 weekly

Total O/T hours: 5 O/T hours

Regular rate: \$11.75 an hour

Overtime rate: \$17.62

O/T rate \$17.62 x 5 O/T hours=\$88.10 weekly x 111 weeks=\$9,779.10

Nature of wages (e.g. overtime or straight time):

This amount represents unpaid overtime wages.

30. At all times material hereto, the Employer/Defendant failed to comply with Title 29 U.S.C. §207 (a) (1), 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 Defendant to properly pay her at the rate of time and one half for all hours worked in excess of forty hours (40) per workweek as provided in said Act.

31. Defendant knew and/or showed reckless disregard of the provisions of the Act concerning the payment of overtime wages as required by the Fair Labor Standards Act and remain owing Plaintiff and those similarly-situated these overtime wages since the commencement of Plaintiff's and those similarly-situated employee's employment with Defendant as set forth above, and Plaintiff and those similarly-situated are entitled to recover double damages.

32. Defendant RESIDENCE INN DANIA BEACH, willfully and intentionally refused to pay Plaintiff overtime wages at the rate of time and one half her regular rate, as required by the law of the United States, and remain owing Plaintiff these overtime wages since the commencement of Plaintiff's employment with Defendants as set forth above.

33. 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 FREDERICKA V. BLACK and those similarly-situated respectfully requests that this Honorable Court:

A. Enter judgment for Plaintiff FREDERICKA V. BLACK and other similarly-situated individuals and against the Defendants RESIDENCE INN DANIA BEACH, on the

basis of Defendants' willful violations of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq.; and

- B. Award Plaintiff FREDERICKA V. BLACK actual damages in the amount shown to be due for unpaid overtime compensation for hours worked in excess of forty weekly, 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 FREDERICKA V. BLACK demands trial by jury of all issues triable as of right by jury.

COUNT II:
FEDERAL STATUTORY VIOLATION PURSUANT TO 29 U.S.C. 215 (a)(3)
RETALIATORY DISCHARGE; AGAINST ALL DEFENDANTS

- 34. Plaintiff FREDERICKA V. BLACK re-adopts each and every factual allegation as stated in paragraphs 1-17 of this complaint as if set out in full herein.
- 35. Defendant RESIDENCE INN DANIA BEACH was and is engaged in interstate commerce as defined in §§ 3 (r) and 3(s) of the Act, 29 U.S.C. § 203(r) and 203(s)(1)(A). Defendant provides lodging services mostly to the tourism and through its business activity, affects interstate commerce. Defendant had more than two employees recurrently engaged in commerce or in the production of goods for commerce, by regularly and recurrently using the instrumentalities of interstate commerce. Defendant uses the instrumentalities of interstate commerce. to accept and solicit funds from non-Florida sources, by using electronic devices to authorize credit card transactions. Upon

information and belief, the proportional annual gross revenue of the Employer/Defendant was at all times material hereto in excess of \$500,000 per annum. By reason of the foregoing, Defendant's business activities involve those to which the Fair Labor Standards Act applies. Therefore, there is FLSA enterprise coverage.

36. Plaintiff and those similarly-situated were employed by an enterprise engage in interstate commerce. Plaintiff and those similarly-situated through their daily activities were regularly participated in interstate commerce. Plaintiff's work was directed to maintain facilities providing hotel services to tourists. Additionally, Plaintiff regularly handled and worked on goods and materials that were moved across State lines at any time in the course of business, Therefore, there is FLSA individual coverage.

37. 29 U.S.C. § 206 (a) (1) states "...an employer must pay a minimum wage of \$5.15/hr to an employee who is engaged in commerce...." [29 U.S.C. § 206 (a) (1)].

38. 29 U.S.C. § 207 (a) (1) states, "if an employer employs an employee for more than forty hours in any work week, the employer must compensate the employee for hours in excess of forty at the rate of at least one and one-half times the employee's regular rate..."

39. Likewise, 29 U.S.C. 215(a)(3) states... it shall be unlawful for any person— "to discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter, or has testified or is about to testify in any such proceeding,....."

40. Defendant RESIDENCE INN DANIA BEACH, employed Plaintiff FREDERICKA V. BLACK as a non-exempt full-time hotel employee from approximately September 2015, to October 17, 2017, or 111 weeks. Plaintiff had an hourly rate of \$11.75 an hour.

41. While employed by Defendants, Plaintiff worked the night shift a regular schedule of Five days per week, from Monday to Friday; from 11:00 PM to 8:00 AM (9 hours daily). Plaintiff did not take bona-fide lunch periods. Thus, Plaintiff worked a total of 45 hours every week. However, Plaintiff was paid only for 40 hours or less, and she was not paid for overtime hours.
42. Plaintiff clocked in and out, but Plaintiff alleges that management manipulated time records to reflect less hours worked. Plaintiff was paid bi-weekly with checks accompanied by paystubs that disclosed 40 hours or less.
43. Therefore, Defendants willfully failed to pay Plaintiff overtime at the rate of time and a half her regular rate, for every hour that he worked in excess of forty (40), in violation of Section 7 (a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(a)(1)).
44. Plaintiff complained multiple times about her missing regular hours, and missing overtime payments to the General Manager Suria Plante, and to the Assistant Manager Cristal Scott, but Defendant never fixed the problem.
45. These complains constituted protected activity under the Fair Labor Standards Act.
46. On or about October 17, 2017, Defendant fired Plaintiff, due to her complaints about missing working hours, and missing overtime payment.
47. At all time during her employment with Defendants, Plaintiff performed her duties satisfactorily. There was no reason other than a retaliatory action to terminate Plaintiff's employment with Defendants.
48. There is closed proximity between Plaintiff's last protected activity, and her termination.

49. Defendant RESIDENCE INN DANIA willfully and intentionally refused to pay Plaintiff regular and overtime wages as required by the laws of the United States as set forth above, and then retaliated against Plaintiff by firing her.

50. The motivating factor which caused Plaintiff's discharge as described above was the complaint seeking overtime wages from the Defendants. In other words, Plaintiff would not have been discharged, but for her complaints for overtime wages.

51. The Defendants' termination of the Plaintiff was in direct violation of 29 U.S.C. 215 (a) (3) and, as a direct result, Plaintiff has been damaged.

52. 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 FREDERICKA V. BLACK respectfully requests that this Honorable Court:

- A. Issue a declaratory judgment that Defendants' acts, policies, practices and procedures complained of herein violated provisions of the Fair Labor Standards Act;
- B. Enter judgment against Defendants RESIDENCE INN DANIA BEACH, that Plaintiff FREDERICKA V. BLACK recovers compensatory, damages and an equal amount of liquidated damages as provided under the law and in 29 U.S.C. § 216(b);
- C. That Plaintiff recovers an award of reasonable attorney fees, costs, and expenses.
- D. Order the Defendants to make whole the Plaintiff by providing appropriate back pay and other benefits wrongly denied in an amount to be shown at trial and other affirmative relief;

E. Plaintiff FREDERICKA V. BLACK further prays for such additional relief as the interests of justice may require.

JURY DEMAND

Plaintiff FREDERICKA V. BLACK demands trial by jury of all issues triable as of right by jury.

Dated: December 28, 2017.

Respectfully submitted,

By: /s/ Zandro E. Palma
ZANDRO E. PALMA, P.A.
Florida Bar No.: 0024031
9100 S. Dadeland Blvd.
Suite 1500
Miami, FL 33156
Telephone: (305) 446-1500
Facsimile: (305) 446-1502
zep@thepalmlawgroup.com
Attorney for Plaintiff

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 THE REVERSE OF THE FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS
FREDERICKA V. BLACK
(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)
(c) Attorney's (Firm Name, Address, and Telephone Number)
The Law Office of Zandro E. Palma, P.A.
9100 South Dadeland Blvd., Suite 1500, Miami, FL 33156
Tel: (305) 446-1500

DEFENDANTS
APPLE TEN FLORIDA SERVICES INC.,
County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT LAND INVOLVED.
Attorneys (If Known)

(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
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)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business In This State PTF DEF 4 4
Incorporated and Principal Place of Business In Another State PTF DEF 5 5
Foreign Nation PTF DEF 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT REAL PROPERTY
TORTS CIVIL RIGHTS PRISONER PETITIONS
FORFEITURE/PENALTY LABOR
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 Re-filed- (see VI below)
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VI. RELATED/RE-FILED CASE(S).
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):
29 U.S.C.
LENGTH OF TRIAL via 3 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
SIGNATURE OF ATTORNEY OF RECORD /s/ Zandro E. Palma, Esq.
DATE December 28, 2017

FOR OFFICE USE ONLY

AMOUNT RECEIPT # IFP

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

FREDERICKA V. BLACK

Plaintiff

v.

APPLE TEN FLORIDA SERVICES INC.,
a/k/a RESIDENCE INN DANIA BEACH

Defendant

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) APPLE TEN FLORIDA SERVICES INC.
a/k/a RESIDENCE INN DANIA BEACH
Through Its Registered Agent
C T CORPORATION SYSTEM
1200 SOUTH PINE ISLAND ROAD
PLANTATION, FL 33324

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:

The Law Office of Zandro E. Palma, P.A.
9100 South Dadeland Boulevard
Suite 1500
Miami, FL 33156

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:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Claims Residence Inn Dania Beach Manipulated Timesheets to Avoid Paying Overtime](#)
