

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. \_\_\_\_\_-CIV-\_\_\_\_\_/\_\_\_\_\_

TAMARA DALBEY, on behalf of herself  
and others similarly situated,

Plaintiff,

v.

T.T.K.M., INC., a Florida Corporation,  
d/b/a ARBY'S, and  
THOMAS LUREAU, individually,

Defendants.

\_\_\_\_\_ /

**COMPLAINT**

1. Plaintiff, TAMARA DALBEY (hereinafter referred to as "Plaintiff"), is an individual residing in Indian River County, Florida.

2. Defendant, T.T.K.M., INC., d/b/a ARBY'S, is a Florida Corporation that at all times material to this Complaint has, through THOMAS LUREAU, owned and operated one or more fast food restaurants including but not necessarily limited to the restaurant located at 1601 S. U.S. 1, Vero Beach, Florida 32960 in Indian River County, within the jurisdiction of this Court.

3. Defendant, THOMAS LUREAU, has at all times material to this Complaint owned and managed/operated T.T.K.M., INC. d/b/a ARBY'S and regularly exercised over employees over Plaintiff including but not limited to exercising the authority to hire and fire employees, determined the manner in which employees are compensated, determined the hours employees are required to work, set the rates of pay of employees, and controlled the finances and operations of T.T.K.M., INC. d/b/a ARBY'S. By virtue of such control and authority, THOMAS LUREAU is an employer of Plaintiff and the other similarly situated employees as defined by the FLSA, 29

U.S.C. §203(d).

4. Plaintiff brings this action on behalf of herself<sup>1</sup> and other current and former employees of T.T.K.M., INC. d/b/a ARBY'S and THOMAS LUREAU (collectively referred to as "Defendants") similarly situated to Plaintiff for unpaid overtime wages and other relief under the Fair Labor Standards Act ("FLSA"), as amended, 29 U.S.C. §216(b).

5. More specifically, this action is brought to recover from Defendants unpaid overtime wages, liquidated damages, and the costs and reasonable attorneys' fees of this action under the provisions of the FLSA, 29 U.S.C. §216(b), for Plaintiff and the other similarly situated employees of Defendants.

6. Jurisdiction is conferred on this Court by 29 U.S.C. §216(b) and 28 U.S.C. §1337.

7. All of the events, or a substantial part of the events, giving rise to this action, occurred in Indian River County within the jurisdiction of the United States District Court for the Southern District of Florida, Fort Pierce Division.

8. During the three (3) year statute of limitations period between approximately March 2014 and February 2017, Plaintiff worked for Defendants as a non-exempt hourly restaurant employee at Defendants' ARBY'S restaurant located at 1601 S. U.S. 1, Vero Beach, Florida 32960, with primary duties that consisted of non-exempt tasks such as running the cashier, assisting customers with their orders, food preparation, cleaning and related duties through the restaurant.

9. At all times material to this Complaint including but not necessarily limited to during the years 2013, 2014, 2015, 2016, and 2017, Defendants, T.T.K.M., INC. and KJM18 GROUP CORP. d/b/a ARBY'S, have had two (2) or more employees who have regularly sold,

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<sup>1</sup> Attached hereto is a signed Consent to Join from TAMARA DALBEY.

handled, or otherwise worked on goods and/or materials that have been moved in or produced for commerce. In this regard, Plaintiff alleges based upon information and belief and subject to discovery, that at all times material to this Complaint, Defendants, have employed two (2) or more employees who, *inter alia*, regularly handled and worked and/or sold goods and/or materials moved in or produced for commerce including but not limited to, by way of example: food and beverage products such as hamburgers, buns, potatoes, soda; commercial kitchen appliances and equipment such as broilers, fryers, refrigerators, and freezers; and and cleaning supplies such as soap and commercial cleaning products.

10. Based upon information and belief, the annual gross sales volume of Defendant, T.T.K.M., INC. d/b/a ARBY'S, has been in excess of \$500,000.00 per annum at all times material to this Complaint, including but not necessarily limited to during the years 2013, 2014, 2015, 2016, and 2017.

11. At all times material to this Complaint including but not necessarily limited to during the years 2013, 2014, 2015, 2016, and 2017, Defendants, T.T.K.M., INC. d/b/a ARBY'S, has constituted an enterprise engaged in interstate commerce or in the production of goods for commerce as defined by the FLSA, 29 U.S.C. §203(s).

12. The additional persons who may become Plaintiffs in this action are Defendants' current and former non-exempt restaurant employees, however variously titled, who have worked in one or more weeks between March 2014 and the present without being paid time and one-half wages for all of their hours worked in excess of Forty (40) hours per week for Defendants.

13. Plaintiff regularly worked in excess of Forty (40) hours per week in one or more work weeks during her employment with Defendants during the three (3) year statute of limitations period between approximately March 2014 and February 2017.

14. However, Defendants failed to pay time and one-half wages for all of the actual overtime hours worked by Plaintiff and all other similarly situated non-exempt employees for Defendants for all of their actual overtime hours worked within the three (3) year statute of limitations period between March 2014 and the present.

15. More specifically, during the three (3) year statute of limitations period between approximately March 2014 and February 2017, Defendant paid Plaintiff based upon regular hourly rates that ranged between \$9.00/hour and \$10.25/hour but Defendants failed to pay Plaintiff time and one-half of her applicable regular hourly rates for all of Plaintiff's actual hours worked in excess of Forty (40) hours per week, instead paying only straight-time wages for Plaintiff's overtime hours worked throughout the statute of limitations period.

16. Subject to discovery, based upon Plaintiff regularly working up to approximately Fifteen (15) overtime hours per week during numerous work weeks between March 2014 and February 2017 and being owed a total approximately Eight Hundred and Seventy (870) overtime hours from Defendant at half-time rates between \$4.88/hour and \$5.13/hour [\$9.75/hour to \$10.25/hour regular rates], Plaintiff's unpaid overtime wages total approximately \$4,301.25.

17. Based upon information and belief, records of at least some of the actual start times, stop times, number of hours worked each day, and total hours worked each week by Plaintiff and all other similarly situated non-exempt employees for Defendants between March 2014 and the present are in the possession, custody, and/or control of Defendants.

18. Based upon information and belief, Defendants have had knowledge of the hours worked each week by Plaintiff and the other similarly situated non-exempt employees for the benefit of Defendants between March 2014 and the present, but Defendants nonetheless willfully failed to pay time and one-half wages for all hours worked over Forty (40) hours per week as

required by the FLSA, as Defendants instead accepted the benefits of the work performed by Plaintiff and other similarly situated employees without the overtime compensation required by law.

**COUNT I**  
**OVERTIME VIOLATIONS OF THE FAIR LABOR STANDARDS ACT**

19. Plaintiff, TAMARA DALBEY, readopts and realleges the allegations contained in Paragraphs 1 through 18 above.

20. Plaintiff is entitled to be paid time and one-half of her applicable regular rates of pay for each hour she worked for Defendants in excess of Forty (40) hours per work week during the three (3) year statute of limitations period between approximately March 2014 and February 2017.

21. All similarly situated non-exempt employees, however variously titled, of Defendants are also entitled to be paid time and one-half wages for all of their hours worked in excess of Forty (40) hours per week for Defendants within the three (3) year statute of limitations period between March 2014 and the present.

22. Defendants have knowingly and willfully failed to pay Plaintiff and the other employees similarly situated to her at time and one-half of their applicable regular rates of pay for all hours worked for Defendants in excess of Forty (40) per week between March 2014 and the present.

23. At all times material to this Complaint, Defendants had constructive and actual notice that Defendants' compensation practices did not provide Plaintiff and the other similarly situated non-exempt employees, however variously titled, with time and one-half wages for all of their actual overtime hours worked between March 2014 and the present based upon, *inter alia*:  
(a) Defendants recording at least some of the start times, stop times, number of hours worked each

day, and total hours worked each week by Plaintiff and other non-exempt employees each week; and (b) Defendants knowingly failing to pay time and one-half wages for all of the actual hours worked in excess of Forty (40) hours per week by Plaintiff and other similarly situated non-exempt employees, however variously titled.

24. By reason of the said intentional, willful and unlawful acts of Defendants, all Plaintiffs (the named Plaintiff and those similarly situated to her) have suffered damages plus incurring costs and reasonable attorneys' fees.

25. Defendants did not have a good faith basis for their failure to pay the overtime wages required by law for all of the actual hours worked by Plaintiff and Defendants' other non-exempt employees in excess of Forty (40) hours per week in numerous work weeks between March 2014 and the present, as a result of which Plaintiff and the other similarly situated employees are entitled to the recovery of liquidated damages in an amount equal to their unpaid overtime wages from Defendants pursuant to 29 U.S.C. §216(b).

26. Plaintiff has retained the undersigned counsel to represent her in this action, and pursuant to 29 U.S.C. §216(b), Plaintiff is entitled to recover from Defendants all reasonable attorneys' fees and costs incurred as a result of Defendants' violations of the FLSA.

27. Plaintiff demands a jury trial.

WHEREFORE, Plaintiff, TAMARA DALBEY, and any current or former employees similarly situated to her who join this action as Opt-In Plaintiffs, demand judgment, jointly and severally, against Defendants, T.T.K.M., INC., d/b/a ARBY'S, and THOMAS LUREAU, for the payment of all unpaid overtime wages, liquidated damages, reasonable attorneys' fees and costs of suit, and for all proper relief including prejudgment interest.

**JURY TRIAL DEMAND**

Plaintiff demands trial by jury on all issues so triable.

Dated: March 13, 2017

Respectfully submitted,

By: **s/KEITH M. STERN**  
Keith M. Stern, Esquire  
Florida Bar No. 321000  
E-mail: [employlaw@keithstern.com](mailto:employlaw@keithstern.com)  
Hazel Solis Rojas, Esquire  
Florida Bar No. 91663  
E-mail: [hsolis@workingforyou.com](mailto:hsolis@workingforyou.com)  
LAW OFFICE OF KEITH M. STERN, P.A.  
One Flagler  
14 NE 1st Avenue, Suite 800  
Miami, Florida 33132  
Telephone: (305) 901-1379  
Facsimile: (561) 288-9031  
Attorneys for Plaintiff

**CONSENT TO JOIN FORM**

1. I consent to be a party plaintiff in a lawsuit against Defendants, **T.T.K.M., Inc. and Thomas Lureau**, as well as any related entities and individuals, to seek recovery for violations of the Fair Labor Standards Act (FLSA) pursuant to 29 U.S.C. §216(b) *et seq.*

2. I hereby designate the Law Office of Keith M. Stern, P.A. to represent me in bringing my FLSA claims and to make decisions on my behalf concerning the litigation and settlement of these claims. I agree to be bound by any adjudication by the Court, whether it is favorable or unfavorable.

3. I also consent to join any other related action against Defendants, or any other potentially responsible parties, to assert my FLSA claims and for this Consent Form to be filed in any such action.

Tamara Dalbey  
Printed Name

Tamara Dalbey  
Signature



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

I. (a) PLAINTIFFS TAMARA DALBEY, on her own behalf and others similarly situated DEFENDANTS T.T.K.M., INC., d/b/a ARBY'S, and THOMAS LUREAU

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Keith M. Stern, Esq., Law Office of Keith M. Stern, P.A., 14 N.E. 1st Avenue, Suite 800, Miami, FL 33132, (305) 901-1379 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) III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Grid for Basis of Jurisdiction and Citizenship of Principal Parties with checkboxes for U.S. Government Plaintiff/Defendant, Federal Question, Diversity, Citizen of This/Another State, Foreign Country, PTF/DEF, and Incorporated/Principal Place of Business.

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

Large grid for Nature of Suit with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, 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 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): 29 U.S.C. 216, action for unpaid overtime wages LENGTH OF TRIAL via 2-3 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 DATE March 13, 2017 SIGNATURE OF ATTORNEY OF RECORD

s/Keith M. Stern

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

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

TAMARA DALBEY, on behalf of herself
and others similarly situated,

Plaintiff(s)

v.

T.T.K.M., INC., a Florida Corporation,
d/b/a ARBY'S, and
THOMAS LUREAU, individually,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) T.T.K. M., INC. d/b/a ARBY'S
c/o Registered Agent, John J. McHugh, Jr.
330 17th Street
Vero Beach, Florida 32960

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:

Keith M. Stern, Esquire
Law Office of Keith M. Stern, P.A.
One Flagler - 14 NE 1 Avenue, Suite 800
Miami, Florida 33132
(305) 901-1379

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:

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

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

TAMARA DALBEY, on behalf of herself
and others similarly situated,

Plaintiff(s)

v.

T.T.K.M., INC., a Florida Corporation,
d/b/a ARBY'S, and
THOMAS LUREAU, individually,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Thomas Lureau
1125 Leeward Lane
Vero Beach, Florida 32963

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:

Keith M. Stern, Esquire
Law Office of Keith M. Stern, P.A.
One Flagler - 14 NE 1 Avenue, Suite 800
Miami, Florida 33132
(305) 901-1379

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

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

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: [Florida Arby's Operator Sued Over Unpaid Overtime](#)

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