

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

2016 DEC 19 PM 4:30

CASE NO.:

MEGAN FRIEND
and other similarly-situated individuals,

6:16-CV-2184-ORL-28-KRS

Plaintiff,

v.

PIE TWO SPEEDWAY, LLC
d/b/a PIE FIVE PIZZA CO
and JOHN RHODES, individually,

Defendants,

COMPLAINT

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

COMES NOW the Plaintiff MEGAN FRIEND and other similarly-situated individuals, by and through the undersigned counsel, and hereby sues Defendants PIE TWO SPEEDWAY, LLC, d/b/a PIE FIVE PIZZA CO, and JOHN RHODES, individually and alleges:

JURISDICTION VENUES AND PARTIES

1. This is an action to recover money damages for unpaid regular and overtime wages under the laws of the United States. This Court has jurisdiction pursuant to Title 28 U.S.C. § 1337 and the Fair Labor Standards Act, 29 U.S.C. § 201-219 (Section 216 for jurisdictional placement) ("the Act").
2. Plaintiff MEGAN FRIEND is a resident of Volusia County, Florida, within the jurisdiction of this Honorable Court. Plaintiff is a covered employee for purposes of the Act.

3. Defendant PIE TWO SPEEDWAY, LLC, d/b/a PIE FIVE PIZZA CO, (hereinafter PIE FIVE PIZZA CO) is a Florida corporation, having place of business in Daytona Beach, Volusia County, Florida, where Plaintiff worked for Defendant. At all times, Defendant was and is engaged in interstate commerce.
4. The individual Defendant PIE FIVE PIZZA CO was and is now, the general manager of PIE FIVE PIZZA CO. This individual Defendant was the employer of Plaintiff and others similarly situated within the meaning of Section 3(d) of the "Fair Labor Standards Act" [29 U.S.C. § 203(d)].
5. All the action raised in this complaint took place in Volusia County, Florida, within the jurisdiction of this Court.

ALLEGATIONS COMMON TO ALL COUNTS

6. Defendant PIE FIVE PIZZA CO, is a chain of pizza restaurants located throughout the United States. Defendant PIE FIVE PIZZA CO has at least four restaurants located in Daytona Beach, Florida.
7. Defendant PIE FIVE PIZZA CO employed Plaintiff MEGAN FRIEND from approximately August 20, 2015 to November 2, 2016. Plaintiff worked at the PIE FIVE PIZZA CO restaurant located at 1388 W. International Blvd., Daytona Beach, Florida 32114.
8. Plaintiff was a non-exempt hourly employee, and her regular wage rate was \$9.50 an hour; Plaintiff worked as a restaurant employee performing general restaurant work, and she performed also as a shift leader.
9. During her time of employment with Defendants, Plaintiff worked a very irregular schedule; Plaintiff was paid for an average of 33 hours weekly. However, Plaintiff

worked an average of 12 off-the clock hours, every week. Plaintiff was not able to take bona fide lunch breaks.

10. Every day, Plaintiff punched in and out according to her regular schedule.

Nevertheless, Plaintiff and other similarly situated employees were forced to stay working after punching-out. Manager JOHN RHODES would call Plaintiff to perform work assignments after she finished her shift and clocked out.

11. Plaintiff worked at least 12 off-the clock hours in every week period that were not compensated at any rate, not even at the minimum wage rate. These off-the clock hours constitute unpaid regular and overtime hours. Defendants did not keep accurate track of hours worked by Plaintiff and other employees similarly situated. Plaintiff was not paid for regular and overtime hours at the rate of time and a half her regular rate, as established by law.

12. Plaintiff was paid bi-weekly with checks that reflected less than 40 hours, accompanied with paystubs that did not show the real number of hours worked.

13. Therefore, Plaintiff was not paid regular wages and overtime hours at the rate of time and one-half her regular rate for every hour that she worked in excess of forty (40), in violation of FLSA provisions.

14. On or about November 2, 2016 Plaintiff was fired by Defendants using pre-textual reasons. Plaintiff states that she was fired due to discriminatory reasons.

15. Plaintiff seeks to recover regular wages and unpaid overtime wages for every off-the clock hour accumulated during her period of employment with Defendants, and any other relief as allowable by law.

16. The additional persons who may become Plaintiffs in this action are employees and/or former employees of Defendant who are and who were subject to the unlawful payroll practices and procedures of Defendants and were not paid for off-the clock hours, and were not paid regular 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

17. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1-16 above as if set out in full herein.
18. This action is brought by Plaintiff MEGAN FRIEND and those similarly-situated to recover from the Employers unpaid 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 specifically under the provisions of 29 U.S.C. § 207. 29 U.S.C. § 207 (a)(1) 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."
19. Defendant PIE FIVE PIZZA CO 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 is a retail business/pizza restaurant. 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 to accept and solicit funds from non-Florida sources; by using electronic devices to authorize credit card transactions by ordering product and supplies produced out of State. Upon information and belief, the annual gross revenue of the Employer/Defendant was in excess of \$500,000 per annum. Defendant's business activities involve those to which the Fair Labor Standards Act applies. Therefore, there is FLSA enterprise coverage.

20. Plaintiff and those similarly-situated were employed by an enterprise engage in interstate commerce. Particularly, Plaintiff had duties as a pizza maker and cashier, and through her daily activities, Plaintiff participated in interstate commerce by processing payments using credit cards. 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 individual coverage.
21. Defendant PIE FIVE PIZZA CO employed Plaintiff MEGAN FRIEND from approximately August 20, 2015 to November 2, 2016, or 63 weeks.
22. Plaintiff was a non-exempt hourly employee and her regular wage rate was \$9.50 an hour. Her overtime rate should be \$14.25.
23. During her time of employment with Defendants, Plaintiff worked a very irregular schedule; Plaintiff was paid for an average of 33 hours weekly. However, Plaintiff worked an average 45 hours every week. Plaintiff was not able to take bona fide lunch breaks.
24. Plaintiff punched in and out according to her schedule every day, nevertheless Plaintiff and other similarly situated employees were forced to stay working after

punching-out. Manager JOHN RHODES would call Plaintiff to perform work assignments after she finished her shift and clocked out.

25. Plaintiff worked at least 12 off-the clock hours in every week period that were not compensated at any rate, not even the minimum wage. Part of these off-the clock hours constitute unpaid overtime hours. Defendants did not keep accurate track of hours worked by Plaintiff and other employees similarly situated. Plaintiff was not paid for overtime hours at the rate of time and a half her regular rate, as established by law.

26. Plaintiff was paid with checks accompanied by paystubs that did not reflect the real number of hours worked.

27. The records, if any, concerning the number of hours worked by Plaintiff and all other employees, and the compensation paid to such employees should be in the possession and custody of Defendants. However, upon information and belief, Defendants did not maintain accurate and complete time records of hours worked by Plaintiff and other employees in the asserted class.

28. 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 wages are as follows:

*Please note that these amounts are based on a preliminary calculation and that these figures could be subject to modification as discovery could dictate. Calculations are based in a workweek of 33 hours, plus 12 off-the clock hours.

a. Total amount of alleged unpaid wages:

Four Thousand Four Hundred Eighty-Eight Dollars and 75/100 (\$4,488.75)

b. Calculation of such wages:

Relevant weeks of employment: 63 weeks
Total number of hours worked: 45 hours average weekly
Total number of overtime hours: 5
Regular rate: $\$9.50 \times 1.5 = \14.25
O/T rate 14.25 an hour

$\$14.25 \times 5 \text{ O/T hrs.} = \$71.25 \text{ weekly} \times 63 \text{ weeks} = \$4,488.75$

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

This amount represents the unpaid of-the clock overtime hours.

29. At all times, the Employer/Defendant PIE FIVE PIZZA CO 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 Defendant to properly pay them 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.
30. Defendant PIE FIVE PIZZA CO 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 remains owing Plaintiff and those similarly-situated these overtime wages since the commencement of Plaintiff 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.
31. At the times mentioned, individual Defendant JOHN RHODES were and is now, the manager of PIE FIVE PIZZA CO. Defendant JOHN RHODES was the employer of Plaintiff and others similarly situated within the meaning of Section 3(d) of the "Fair Labor Standards Act" [29 U.S.C. § 203(d)], in that this individual Defendant acted directly in the interests of PIE FIVE PIZZA CO in relation to the

employees of PIE FIVE PIZZA CO, including Plaintiff and others similarly situated. Defendant JOHN RHODES had operational control of the businesses, provided Plaintiff with her work schedules, and is jointly liable for Plaintiff's damages.

32. Defendants PIE FIVE PIZZA CO, and JOHN RHODES willfully and intentionally refused to pay Plaintiff overtime wages as required by the law of the United States, and remain owing Plaintiff these overtime wages, 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 MEGAN FRIEND and those similarly-situated respectfully requests that this Honorable Court:

- A. Enter judgment for Plaintiff and other similarly-situated and against the Defendants PIE FIVE PIZZA CO, and JOHN RHODES on the basis of Defendants' willful violations of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq.; and
- B. Award Plaintiff MEGAN FRIEND actual damages in the amount shown to be due for unpaid wages and 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 MEGAN FRIEND and those similarly-situated demand trial by jury of all issues

COUNT II:

**F.L.S.A. WAGE AND HOUR FEDERAL STATUTORY VIOLATION:
FAILURE TO PAY MINIMUM WAGE; AGAINST ALL DEFENDANTS**

34. Plaintiff MEGAN FRIEND re-adopts each and every factual allegation as stated in paragraphs 1-16 of this complaint as if set out in full herein.
35. Defendant PIE FIVE PIZZA CO 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 is a retail business/pizza restaurant. 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 to accept and solicit funds from non-Florida sources; by using electronic devices to authorize credit card transactions by ordering product and supplies produced out of State. Upon information and belief, the annual gross revenue of the Employer/Defendant was in excess of \$500,000 per annum. 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. Particularly, Plaintiff had duties as a pizza maker and cashier, and through her daily activities, Plaintiff participated in interstate commerce by processing payments using credit cards. 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 individual coverage.

37. This action is brought by Plaintiff to recover from the Employer unpaid minimum wages, 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 specifically under the provisions of 29 U.S.C. §206. U.S.C. §206 states "Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates:

1) except as otherwise provided in this section, not less than—

(A) \$5.85 an hour, beginning on the 60th day after May 25, 2008;

(B) \$6.55 an hour, beginning 12 months after that 60th day; and

(C) \$7.25 an hour, beginning 24 months after that 60th day.

38. Defendant PIE FIVE PIZZA CO employed Plaintiff MEGAN FRIEND from approximately August 20, 2015 to November 2, 2016, or 63 weeks.

39. Plaintiff was a non-exempt hourly employee and her regular wage rate was \$9.50 an hour.

40. During her time of employment with Defendant, Plaintiff worked a very irregular schedule; Plaintiff was paid for an average of 33 hours weekly. However, Plaintiff worked an average of 12 off-the clock hours, every week. Plaintiff was not able to take bona fide lunch breaks.

41. Plaintiff punched in and out according to her regular schedule every day, nevertheless Plaintiff and other similarly situated employees were forced to stay

working after punching-out. Manager JOHN RHODES would call Plaintiff to perform work assignments after she finished her shift and clocked out.

42. Plaintiff worked at least 12 off-the clock hours in every week period that were not compensated at any rate, not even the minimum wage. Part of these off-the clock hours constitute unpaid regular hours. Defendant did not keep accurate track of hours worked by Plaintiff and other employees similarly situated. There are a substantial number of hours that were not paid at any rate, not even the minimum wage rate.
43. Plaintiff was paid for an average of 33 hours weekly. There is a remaining of 7 regular hours that never were paid to Plaintiff at any rate, not even the Federal minimum wage as established by the Fair Labor Standards Act.
44. Plaintiff was paid with checks accompanied by paystubs that did not reflect the real number of hours worked.
45. The records, if any, concerning the number of hours actually worked by Plaintiff and all other employees, 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 accurate and complete time records of hours worked by Plaintiff and other similarly situated employees.
46. Defendant violated the record keeping requirements of FLSA, 29 CFR Part 516.
47. 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 wages are as follows:

*Please note that these amounts are based on a preliminary calculation and that these figures could be subject to modification as discovery could dictate. Calculations are based in a workweek of 33 hours, plus 12 off-the clock hours.

*Florida minimum wage is \$8.05, which is higher than Federal minimum wage. As per FLSA regulations the higher minimum wage applies.

a. Total amount of alleged unpaid wages:

Three Thousand Five Hundred Fifty Dollars and 05/100 (\$3,550.05)

b. Calculation of such wages:

Total relevant weeks of employment: 63 weeks

Average of total hours worked weekly: 40 hours weekly

Average of regular hour paid weekly hours paid weekly: 33 hours

Total number of unpaid regular hours: 7 weekly

Federal Minimum Wage 2016: \$7.25 Florida Minimum Wage 2016 \$8.05

$\$8.05 \times 7 \text{ hours} = \$56.35 \text{ weekly} \times 63 \text{ weeks} = \$3,550.05$

c. Nature of wages:

This amount represents unpaid regular hours at Florida minimum wage rate.

48. Defendant PIE FIVE PIZZA CO unlawfully failed to pay minimum wages to Plaintiff. Plaintiff seeks to recover any unpaid wages accumulated from the date of hire and/or from 3 (three) years from the date of the filing of this complaint.

49. Defendant knew and/or showed reckless disregard of the provisions of the Act concerning the payment of minimum wages as required by the Fair Labor Standards Act and remains owing Plaintiff these minimum wages since the commencement of Plaintiff employment with Defendant as set forth above, and Plaintiff is entitled to recover double damages.

50. At the times mentioned, individual Defendant JOHN RHODES were and is now, the manager of PIE FIVE PIZZA CO. Defendant JOHN RHODES was the

employer of Plaintiff and others similarly situated within the meaning of Section 3(d) of the "Fair Labor Standards Act" [29 U.S.C. § 203(d)], in that this individual Defendant acted directly in the interests of PIE FIVE PIZZA CO in relation to the employees of PIE FIVE PIZZA CO, including Plaintiff and others similarly situated. Defendant JOHN RHODES had operational control of the businesses, provided Plaintiff with her work schedules, and is jointly liable for Plaintiff's damages.

51. Defendants PIE FIVE PIZZA CO and JOHN RHODES willfully and intentionally refused to pay Plaintiff minimum wages as required by the law of the United States, and remains owing Plaintiff these minimum wages as set forth above.

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 MEGAN FRIEND and others similarly situated employees respectfully requests that this Honorable Court:

- A. Enter judgment for Plaintiff and against the Defendants PIE FIVE PIZZA CO and JOHN RHODES, on the basis of 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, 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

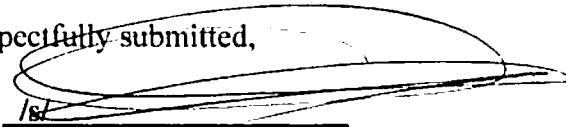
available pursuant to Federal Law.

JURY DEMAND

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

Dated: December 15, 2016

Respectfully submitted,

By:  /s/

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@thepalmalawgroup.com

Attorney for Plaintiff

JS 44 (Rev. 11/15)

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
MEGAN FRIEND**DEFENDANTS**
PIE TWO SPEEDWAY, LLC
d/b/a PIE FIVE PIZZA CO ET AL.(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)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)

(c) Attorneys (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**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)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| 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)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input checked="" type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Limitation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395m) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC DIWW (465g) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405g) <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729a) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 496 Cable Sat TV <input type="checkbox"/> 850 Securities/Commodities Exchange <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 State 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 (Specify)
- ☐ 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):
29 USC

Brief description of cause:
FLSA Case

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.C.P.

DEMAND \$

CHECK YTS only if demanded in complaint
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE
12/15/2016

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING REP

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.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Pie Five Pizza Co. Slapped with Unpaid Wage Class Action](#)
