

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

CASE NO.:

ALEXIS GONZALEZ,  
and other similarly-situated individuals,

Plaintiff,

v.

BREAD AND CHOCOLATE LLC d/b/a  
GRANIER BAKERY,

Defendant,  
\_\_\_\_\_ /

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

COMES NOW the Plaintiff ALEXIS GONZALEZ and other similarly-situated individuals, by and through the undersigned counsel, and hereby sues Defendant BREAD & CHOCOLATE LLC d/b/a GRANIER BAKERY and alleges:

JURISDICTION VENUES AND PARTIES

1. This is an action to recover money damages for unpaid 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 ALEXIS GONZALEZ is a resident of Miami-Dade County, Florida, within the jurisdiction of this Honorable Court. Plaintiff was a covered employee for purposes of the Act.

3. Defendant BREAD & CHOCOLATE LLC d/b/a GRANIER BAKERY (hereinafter GRANIER BAKERY) is a Florida corporation having place of business in Miami-Dade County, Florida, where Plaintiff worked for Defendant. At all times material hereto was and is engaged in interstate commerce.
4. All the action raised in this complaint took place in Dade County Florida, within the jurisdiction of this Court.

ALLEGATIONS COMMON TO ALL COUNTS

5. Defendant GRANIER BAKERY is a bakery/cafeteria business located at 18230, Collins Avenue, Sunny Isles Beach, Florida 33160.
6. Defendant GRANIER BAKERY employed Plaintiff ALEXIS GONZALEZ from approximately February 24, 2014 through November 25, 2017, or more than 3 years and 9 months. However, for FLSA purposes, the relevant time of employment is 137 weeks.
7. Plaintiff was hired as a bakery employee, and he had multiple duties including bakery production, purchasing of restaurant supplies, maintenance, driving and remodeling work. Plaintiff was paid a salary of \$725.00 per week.
8. While employed by Defendant GRANIER BAKERY, Plaintiff ALEXIS GONZALEZ worked for up to 50 and 60 hours per week without being compensated at the rate of not less than one and one-half times the regular rate at which he was employed.
9. Plaintiff was employed as a “bakery employee” performing the same or similar duties as that of those other similarly-situated “cafeteria employees” who Plaintiff observed worked in excess of 40 hours per week without overtime compensation.

10. Plaintiff had a very irregular schedule. During 2015 to approximately January 2017(95 weeks), Plaintiff worked a minimum of 50 hours weekly. Approximately since February 2017, to November 25, 2017 (42 weeks), Plaintiff worked an average of 6 days per week, a minimum of 60 hours weekly.
11. Plaintiff did not clock in and out, and Defendant did not keep track of hours worked by Plaintiff and other employees similarly situated. Defendant willfully failed to pay Plaintiff overtime hours at the rate of time and a half his regular rate.
12. Therefore, Defendant failed to pay Plaintiff at the rate of time and a half his regular rate for every hour in excess of forty, in violation of Section 7 (a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(a)(1)).
13. Plaintiff was not in agreement with the lack of payment for overtime hours, as well as his working conditions, and effective November 25, 2017, Plaintiff resigned from his position at GRANIER BAKERY, to pursue better employment opportunities.
14. Plaintiff ALEXIS GONZALEZ seeks to recover half-time unpaid overtime hours that were not paid to him, plus liquidated damages under FLSA, and any other relief as allowable by law.
15. 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 Defendant and were not paid 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**

16. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1-15 above as if set out in full herein.
17. This action is brought by Plaintiff 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."
18. Defendant GRANIER BAKERY 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/bakery/cafeteria business. 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 Employers/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.

19. Plaintiff and those similarly-situated were employed by an enterprise engage in interstate commerce. Particularly, Plaintiff was a bakery employee who was responsible for purchasing bakery supplies and performed numerous credit card transactions. Plaintiff through his multiples activities 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.
20. Defendant GRANIER BAKERY employed Plaintiff ALEXIS GONZALEZ from approximately February 24, 2014 through November 25, 2017, or more than 3 years and 9 months. However, for FLSA purposes, the relevant time of employment is 137 weeks.
21. Plaintiff was hired as a bakery employee, and he had multiple duties including bakery production, purchasing of restaurant supplies, maintenance, driving and remodeling work. Plaintiff was paid a salary of \$725.00 per week.
22. While employed by Defendant GRANIER BAKERY, Plaintiff ALEXIS GONZALEZ worked for up to 50 and 60 hours per week without being compensated at the rate of not less than one and one-half times the regular rate at which he was employed.
23. Plaintiff was employed as a “bakery employee” performing the same or similar duties as that of those other similarly-situated “cafeteria employees” who Plaintiff observed worked in excess of 40 hours per week without overtime compensation.

24. Plaintiff had a very irregular schedule. During 2015 to approximately January 2017 (95 weeks), Plaintiff worked a minimum of 50 hours weekly. Approximately since February 2017, to November 25, 2017 (42 weeks), Plaintiff worked an average of 6 days per week, a minimum of 60 hours weekly.
25. Plaintiff did not clock in and out, and Defendant did not keep track of hours worked by Plaintiff and other employees similarly situated. Defendant willfully failed to pay Plaintiff overtime hours at the rate of time and a half his regular rate.
26. Therefore, Defendant failed to pay Plaintiff at the rate of time and a half his regular rate for every hour in excess of forty, 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 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 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:

\*Calculations have been made according to the FLSA statute of limitations. Please note that these amounts are based on a preliminary calculation and that these figures could be subject to modification as discovery could dictate.

a. Total amount of alleged unpaid wages:

Eleven Thousand Nine Hundred Sixty-One Dollars and 20/100  
(\$11,961.10)

b. Calculation of such wages:

Total relevant weeks of employment: 137 weeks

**1.- Period from April 9, 2015 to January 31, 2017 = 95 weeks**

Total number of hours worked: 50 hours average weekly

Total number or paid hours: 50 hours

Total number of overtime hours: 10 hours

Paid weekly: \$725.00 - \$725.00:50 hours = \$14.50 regular rate

Regular rate: \$14.50 x 1.5 = \$21.75 O/T rate

O/T rate \$21.75-\$14.50=\$7.25 half-time difference

Half-time \$7.25 x 10 O/T hours= \$72.50 weekly x 95 weeks=\$6,887.50

**2.- Period from February 01, 2017 to November 25, 2017=42 weeks**

Total number of hours worked: 60 hours average weekly

Total number or paid hours: 60 hours

Total number of overtime hours: 20 hours

Paid weekly: \$725.00- \$725.00:60 hours = \$12.08 regular rate

Regular rate: \$12.08 x 1.5 = \$18.12 O/T rate

O/T rate \$18.12-\$12.08=\$6.04 half-time difference

Half-time \$6.04 x 20 O/T hours= \$120.80 weekly x 42 weeks=\$5,073.60

Total overtime 1and 2 = \$11,961.10

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

This amount represents the unpaid overtime.

29. At all times material hereto, the Employer/Defendant GRANIER BAKERY 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 GRANIER BAKERY 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. Defendant GRANIER BAKERY, willfully and intentionally refused to pay Plaintiff overtime wages as required by the law of the United States as set forth above and remain owing Plaintiff these overtime wages, as set forth above.

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff ALEXIS GONZALEZ and those similarly-situated respectfully requests that this Honorable Court:

- A. Enter judgment for Plaintiff and other similarly-situated and against the Defendant GRANIER BAKERY, on the basis of Defendant's willful violations of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq.; and
- B. Award Plaintiff ALEXIS GONZALEZ 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 ALEXIS GONZALEZ and those similarly-situated demand trial by jury of all issues triable as of right by jury.

Dated: April 11, 2018

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@thepalmalawgroup.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
ALEXIS GONZALEZ
(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
BREAD AND CHOCOLATE LLC d/b/a
GRANIER BAKERY
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: [X] 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
[X] 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
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 [ ] 4 [ ] 4
Incorporated and Principal Place of Business In Another State [ ] 5 [ ] 5
Foreign Nation [ ] 6 [ ] 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT: [ ] 110 Insurance, [ ] 120 Marine, [ ] 130 Miller Act, [ ] 140 Negotiable Instrument, [ ] 150 Recovery of Overpayment & Enforcement of Judgment, [ ] 151 Medicare Act, [ ] 152 Recovery of Defaulted Student Loans (Excl. Veterans), [ ] 153 Recovery of Overpayment of Veteran's Benefits, [ ] 160 Stockholders' Suits, [ ] 190 Other Contract, [ ] 195 Contract Product Liability, [ ] 196 Franchise
REAL PROPERTY: [ ] 210 Land Condemnation, [ ] 220 Foreclosure, [ ] 230 Rent Lease & Ejectment, [ ] 240 Torts to Land, [ ] 245 Tort Product Liability, [ ] 290 All Other Real Property
TORTS: PERSONAL INJURY: [ ] 310 Airplane, [ ] 315 Airplane Product Liability, [ ] 320 Assault, Libel & Slander, [ ] 330 Federal Employers' Liability, [ ] 340 Marine, [ ] 345 Marine Product Liability, [ ] 350 Motor Vehicle, [ ] 355 Motor Vehicle Product Liability, [ ] 360 Other Personal Injury
PERSONAL INJURY: [ ] 362 Personal Injury - Med. Malpractice, [ ] 365 Personal Injury - Product Liability, [ ] 368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY: [ ] 370 Other Fraud, [ ] 371 Truth in Lending, [ ] 380 Other Personal Property Damage, [ ] 385 Property Damage Product Liability
PRISONER PETITIONS: [ ] 510 Motions to Vacate Sentence, Habes Corpus: [ ] 530 General, [ ] 535 Death Penalty, [ ] 540 Mandamus & Other, [ ] 550 Civil Rights, [ ] 555 Prison Condition
FORFEITURE/PENALTY: [ ] 610 Agriculture, [ ] 620 Other Food & Drug, [ ] 625 Drug Related Seizure of Property 21 USC 881, [ ] 630 Liquor Laws, [ ] 640 R.R. & Truck, [ ] 650 Airline Regs., [ ] 660 Occupational Safety/Health, [ ] 690 Other
LABOR: [X] 710 Fair Labor Standards Act, [ ] 720 Labor/Mgmt. Relations, [ ] 730 Labor/Mgmt. Reporting & Disclosure Act, [ ] 740 Railway Labor Act, [ ] 790 Other Labor Litigation, [ ] 791 Empl. Ret. Inc. Security Act
BANKRUPTCY: [ ] 422 Appeal 28 USC 158, [ ] 423 Withdrawal 28 USC 157
PROPERTY RIGHTS: [ ] 820 Copyrights, [ ] 830 Patent, [ ] 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
OTHER STATUTES: [ ] 400 State Reapportionment, [ ] 410 Antitrust, [ ] 430 Banks and Banking, [ ] 450 Commerce, [ ] 460 Deportation, [ ] 470 Racketeer Influenced and Corrupt Organizations, [ ] 480 Consumer Credit, [ ] 490 Cable/Sat TV, [ ] 810 Selective Service, [ ] 850 Securities/Commodities/Exchange, [ ] 875 Customer Challenge 12 USC 3410, [ ] 890 Other Statutory Actions, [ ] 891 Agricultural Acts, [ ] 892 Economic Stabilization Act, [ ] 893 Environmental Matters, [ ] 894 Energy Allocation Act, [ ] 895 Freedom of Information Act, [ ] 900 Appeal of Fee Determination Under Equal Access to Justice, [ ] 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)
[X] 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 [X] NO
b) Related Cases [ ] YES [X] NO
(See instructions second page): 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: [X] Yes [ ] No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE
SIGNATURE OF ATTORNEY OF RECORD /s/ Zandro E. Palma, Esq.
DATE April 11, 2018

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

ALEXIS GONZALEZ

Plaintiff

v.

BREAD AND CHOCOLATE LLC d/b/a GRANIER BAKERY

Defendant

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)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) BREAD AND CHOCOLATE LLC d/b/a GRANIER BAKERY
Through Its Registered Agent
M.T.K INTERNATIONAL LAW GROUP, PA
2410 HOLLYWOOD BOULEVARD
HOLLYWOOD, FL 33020

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

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Former Granier Bakery Employee Files Suit Seeking OT Wages](#)

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