

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

LORENZO WILLIAM JOHNSON JR.
and all others similarly situated under 29
U.S.C. 216(b)

Plaintiff,

vs.

BAY BAYS CHICKEN & WAFFLES
LLC, BAY BAYS CHICKEN AND
WAFFLES NUMBER TWO LLC AND
ISRAEL G. JOHNSON

Defendants.

COMPLAINT

COMES NOW Plaintiff, LORENZO WILLIAM JOHNSON JR., by and through his undersigned attorney, and hereby sues Defendants, BAY BAYS CHICKEN & WAFFLES LLC a Florida Corporation, BAY BAYS CHICKEN & WAFFLES NUMBER TWO LLC a Florida Corporation, and ISRAEL G. JOHNSON individually, and as grounds alleges:

JURISDICTIONAL ALLEGATIONS

1. This is an action to recover monetary damages, liquidated damages, interests, costs and attorney's fees for willful violations of overtime pay under the laws of the United States, the Fair Labor Standards Act, 29 U.S.C. §§201-219) ("the FLSA").
2. Plaintiff is a resident of Palm Beach County, Florida, within the jurisdiction of this Honorable Court.
3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1331 because this action involves the Fair Labor Standards Act, 29 U.S.C. §§201, *et seq.*, a federal statute.

4. Venue is proper in this district pursuant to 28 U.S.C. §1391(c) and (d).

5. Defendant BAY BAYS CHICKEN & WAFFLES LLC is a Florida corporation which regularly conducted business within the Southern District of Florida.

6. Defendant BAY BAYS CHICKEN & WAFFLES NUMBER TWO LLC is a Florida corporation which regularly conducted business within the Southern District of Florida.

7. BAY BAYS CHICKEN & WAFFLES LLC is and, at all times pertinent to this Complaint, was engaged in interstate commerce. At all times pertinent to this Complaint, BAY BAYS CHICKEN & WAFFLES LLC operated as an organization which sells and/or markets and/or handles its services and/or goods and/or materials to customers from throughout the United States and also provides its services for goods and materials sold and transported from across state lines of numerous other states, and BAY BAYS CHICKEN & WAFFLES LLC obtains and solicits funds from non-Florida sources, accepts funds from non-Florida sources, uses telephonic transmissions going over state lines to do its business, transmits funds outside the State of Florida, and otherwise regularly engages in interstate commerce, particularly with respect to its employees. Specifically, the ingredients and/or food products handled by two or more of Defendants' employees on a regular and consistent basis, had previously travelled in interstate commerce.

8. Upon information and belief, the annual gross revenue of BAY BAYS CHICKEN & WAFFLES LLC was at all times material hereto in excess of \$500,000.00 per annum. BAY BAYS CHICKEN & WAFFLES LLC had gross annual revenue in excess of \$500,000, for the year of 2016.

9. By reason of the foregoing, BAY BAYS CHICKEN & WAFFLES LLC is and was, during all times hereafter mentioned, an enterprise engaged in commerce or in the production of

goods for commerce as defined in §3(r) and 3(s) of the FLSA, 29 U.S.C. §203(r) and 203(s) and/or Plaintiffs is within interstate commerce.

10. BAY BAYS CHICKEN & WAFFLES NUMBER TWO LLC is and, at all times pertinent to this Complaint, was engaged in interstate commerce. At all times pertinent to this Complaint, BAY BAYS CHICKEN & WAFFLES NUMBER TWO LLC operated as an organization which sells and/or markets and/or handles its services and/or goods and/or materials to customers from throughout the United States and also provides its services for goods and materials sold and transported from across state lines of numerous other states, and BAY BAYS CHICKEN & WAFFLES NUMBER TWO LLC obtains and solicits funds from non-Florida sources, accepts funds from non-Florida sources, uses telephonic transmissions going over state lines to do its business, transmits funds outside the State of Florida, and otherwise regularly engages in interstate commerce, particularly with respect to its employees. Specifically, the ingredients and/or food products handled by two or more of Defendants' employees on a regular and consistent basis, had previously travelled in interstate commerce.

11. Upon information and belief, the annual gross revenue of BAY BAYS CHICKEN & WAFFLES NUMBER TWO LLC was at all times material hereto in excess of \$500,000.00 per annum. BAY BAYS CHICKEN & WAFFLES NUMBER TWO LLC had gross annual revenue in excess of \$500,000, for the year of 2016.

12. By reason of the foregoing, BAY BAYS CHICKEN & WAFFLES NUMBER TWO LLC is and was, during all times hereafter mentioned, an enterprise engaged in commerce or in the production of goods for commerce as defined in §3(r) and 3(s) of the FLSA, 29 U.S.C. §203(r) and 203(s) and/or Plaintiffs is within interstate commerce.

13. The individual Defendant, ISRAEL G. JOHNSON, is an “employer,” as defined in 29 U.S.C. § 203(d), as he has operational control over the Defendant corporation and is directly involved in decisions affecting employee compensation and hours worked by employees such as Plaintiffs and opt-in plaintiffs. Defendant ISRAEL G. JOHNSON controlled the purse strings for the corporate Defendant. Defendant ISRAEL G. JOHNSON hired and fired employees, determined the rate of compensation and was responsible for ensuring that employees were paid the wages required by the FLSA.

14. Defendant BAY BAYS CHICKEN & WAFFLES LLC was and continues to operate as a joint enterprise with BAY BAYS CHICKEN & WAFFLES NUMBER TWO LLC. Both enterprises are commonly owned by Defendant Israel G. Johnson. Both corporations share a common business purpose of providing food service. Both corporations share employees, including the Plaintiff and often times an employee would be paid a salary through one corporation while performing work for both entities.

15. Upon information and belief, the combined annual gross revenue of BAY BAYS CHICKEN & WAFFLES LLC and BAY BAYS CHICKEN & WAFFLES NUMBER TWO LLC was at all times material hereto in excess of \$500,000.00 per annum. BAY BAYS CHICKEN & WAFFLES LLC and BAY BAYS CHICKEN & WAFFLES NUMBER TWO LLC, combined, had gross annual revenue in excess of \$500,000, for the year of 2016.

16. BAY BAYS CHICKEN & WAFFLES LLC and BAY BAYS CHICKEN & WAFFLES LLC jointly employed the Plaintiff. Both entities share a common officer and owner, Israel G. Johnson. Both entities had an arrangement to share the services of Plaintiff. Both entities are not completely disassociated with respect to controlling the Plaintiff’s work, and both entities share in controlling Plaintiff’s work. Specifically, both entities control the schedule and the hours

that Plaintiff worked, and the pay that Plaintiff received. Accordingly, Plaintiff is under the common control of both entities.

COUNT I: UNPAID OVERTIME WAGES

17. Plaintiff re-alleges and re-avers paragraphs 1 through 16 as fully set forth herein.

18. Plaintiff Lorenzo William Johnson Jr. was employed by the Defendants as a non-exempt cook/waiter/assistant manager.

19. Plaintiff, Lorenzo William Johnson Jr., was employed from on or about November 25, 2015 through December 1, 2016.

20. During the approximate period of January 31, 2016 through May 28, 2016 Plaintiff, Lorenzo William Johnson, Jr., worked approximately 48 hours per week, excluding engaged to be waiting hours, and was paid at 4 different hourly rates of \$8.20/hr., \$9.25/hr., \$9.50/hr. and \$10.50/hr., for said work but was not paid the time and one-half overtime rate for each hour worked. Therefore, Plaintiff claims the halftime overtime rate for each hour worked for which he paid at the straight time rate but not paid the time and one half overtime rate for each overtime hour worked.

21. Additionally, during the approximate period of January 31, 2016 through May 28, 2016, Lorenzo William Johnson Jr., was required to clock in when starting to work and clock out when the shift was over. However, when there was a lack of customers, Defendants maintained a policy of requiring Plaintiff to clock out, and not clock back in until customers arrived. During this time, Plaintiff was constricted as he was required to remain on premises and was not free to effectively pursue his own personal pursuits. Plaintiff estimates that approximately overtime hours a week he was engaged to be waiting when Defendants required him to clock out until the

customers arrived. Plaintiff therefore claims the time and one half overtime rate for each of these overtime hours for which he was not paid anything at all.

22. From May 27, 2016 through the conclusion of his employment with Defendants, Plaintiff, Lorenzo William Johnson Jr., worked an average of 68 – 71 hours a week, and was paid a salary if he worked 55 or more hours a week, which equated to an hourly rate of \$7.94/hr., but was never paid the premium overtime rate when he worked over 40 hours in a week. Therefore, Plaintiff claims the halftime rate for each overtime hour worked.

23. Defendants were required to pay Plaintiff's overtime wages. Plaintiff was rarely paid overtime wages at a rate of time and one half, when he worked more than 40 hours per week.

24. The FLSA requires that employees be paid overtime hours worked in excess of forty (40) hours weekly at a rate of time-and-one-half the regular rate. At all times material hereto, Defendants 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 performed services and worked in excess of the maximum hours provided by the FLSA but no provision was made by the Defendants to properly pay him at the rate of time and one-half for all hours worked in excess of forty (40) per workweek as provided in the FLSA.

25. Defendants knew and/or showed reckless disregard of the provisions of the FLSA concerning the payment of overtime wages as required by the Fair Labor Standards Act. Defendants were aware of Plaintiff's work schedule and further aware that Plaintiff was working more than 40 hours per week. In fact, Defendants would purposely have Plaintiff work at two different locations so that they could pay Plaintiff separately through both entities without having the paystubs reflect the overtime hours worked by Plaintiff. Defendants were aware of Plaintiff's pay records and the rate that he was being paid for his hours. Despite Defendants' having knowledge of Plaintiff's hours and their failure to pay overtime wages, Defendants did not change

its pay practices and continued to fail to pay Plaintiff, and those similarly situated, the overtime wages they were due.

26. The similarly situated individuals are those individuals whom were employed by the Defendants as non-exempt cooks/waiters/assistant managers like the Plaintiff, and whom were not paid overtime wages.

27. Plaintiff has retained the law offices of the undersigned attorneys to represent him in this action and is entitled to award of reasonable attorney's fees.

WHEREFORE, Plaintiff requests compensatory and liquidated damages, and reasonable attorney's fees and costs from Defendants, jointly and severally, pursuant to the Fair Labor Standards Act as cited above, to be proven at the time of trial for overtime owing from Plaintiff's entire employment period with Defendants, or as much as allowed by the Fair Labor Standards Act, whichever is greater, along with court costs. In the event that Plaintiff does not recover liquidated damages, then Plaintiff will seek an award of prejudgment interest for the unpaid overtime, and any and all other relief which this Court deems reasonable under the circumstances.

JURY DEMAND

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

Dated: January 6, 2017

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UNITED STATES DISTRICT COURT

for the
Southern District of Florida

LORENZO WILLIAM JOHNSON JR. and all others
similarly situated under 29 U.S.C. 216(b),

Plaintiff,

vs.

BAY BAYS CHICKEN & WAFFLES LLC, BAY
BAYS CHICKEN AND WAFFLES NUMBER TWO
LLC AND ISRAEL G. JOHNSON

Defendants.

SUMMONS IN A CIVIL ACTION

To:

Bay Bays Chicken & Waffles Number Two LLC 2276 North Congress Avenue
Registered Agent: Kaeshua Restaurant Group, LLC WEST PALM BEACH, FL 33426
1558 Palm Beach Lakes, Blvd.
West Palm Beach, Florida 33401

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:

Mamane Law LLC
1150 Kane Concourse, Fourth Floor
Bay Harbor Islands, FL 33154

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

UNITED STATES DISTRICT COURT

for the
Southern District of Florida

LORENZO WILLIAM JOHNSON JR. and all others
similarly situated under 29 U.S.C. 216(b),

Plaintiff,

vs.

BAY BAYS CHICKEN & WAFFLES LLC, BAY
BAYS CHICKEN AND WAFFLES NUMBER TWO
LLC AND ISRAEL G. JOHNSON

Defendants.

SUMMONS IN A CIVIL ACTION

To:

Israel G. Johnson
1103 Coastal Bay Blvd.
Boynton Beach, Florida 33435

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:

Mamane Law LLC
1150 Kane Concourse, Fourth Floor
Bay Harbor Islands, FL 33154

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

I. (a) PLAINTIFFS LORENZO WILLIAM JOHNSON JR

DEFENDANTS Bay Bays Chicken & Waffles LLC, Bay Bay Chicken and Waffles Two, LLC, Israel Johnson

(b) County of Residence of First Listed Plaintiff West Palm Beach (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) Mamane Law LLC, 1150 Kane Concourse, Fourth Floor, Bay Harbor Islands, FL 33154. Tel: 305-773-6661

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF 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
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)

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

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Property Damage, Labor Standards, etc.

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
8 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S) (See instructions):

a) Re-filed Case [] YES [X] NO b) Related Cases [] YES [X] NO

JUDGE DOCKET NUMBER

VII. CAUSE OF ACTION FLSA; overtime wages 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):

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

DATE SIGNATURE OF ATTORNEY OF RECORD

January 6, 2017

/s/ Isaac Mamane

FOR OFFICE USE ONLY

RECEIPT # AMOUNT IFP JUDGE MAG JUDGE

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Bay Bays Chicken & Waffles Fried with Unpaid Overtime Lawsuit](#)
