

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
FORT PIERCE DIVISION

KATHY KESSEL,
ROSTANT RAMLAL,
and
WILSON TORRES,
Individually, and on behalf of all
Others similarly situated,
Plaintiffs,

Case No. _____

vs.

FRONTON HOLDINGS, LLC,
d/b/a FORT PIERCE JAI-ALAI AND POKER,
and David Jonas,
Defendants.

_____ /

COMPLAINT

COMES NOW the Plaintiffs, individually and on behalf of all others similarly situated and file this Complaint for violation of the Fair Labor Standards Act and states as follows:

JURISDICTION

Jurisdiction in this Court is proper under 28 U.S.C. 1331 as this claim is for violations of the Fair Labor Standards Act, as amended (“FLSA”) 29 U.S.C. §201, et. seq. to recover wages, an additional equal amount in liquidated damages, front pay, compensatory damages as well as costs and reasonable attorney’s fees.

VENUE

Venue is proper in this Court as the Plaintiffs reside within the Southern District of Florida and the Defendants maintain business operations within the District.

PARTIES

1. Plaintiff Kessel resides in St. Lucie County, Florida.
2. Plaintiff Ramlal resides in Indian River County, Florida.
3. Plaintiff Torres resides in St. Lucie County, Florida.
4. At all times material hereto, Plaintiffs were “employees” of Defendants within the meaning of the FLSA.
5. At all times material hereto, Defendant Fronton Holdings, LLC d/b/a Fort Pierce Jai Alai and Poker (hereinafter “Fronton”) was, and continues to be, in the business of legalized gambling and, therefore, is an “enterprise engaged in commerce” within the meaning of the FLSA.
6. At all times material hereto, Defendant Fronton is an employer as defined by 29 U.S.C. §203(d).
7. In May 2014, Defendant David Jonas became the owner of Defendant Fronton.
8. At all times material hereto, Defendant Jonas was an employer as defined by 29 U.S.C. §203(d)

9. Based on information and belief, the annual gross revenue of Defendant Fronton is in excess of \$500,000.00 per annum during the relevant time period.
10. Plaintiffs attempted to resolve this matter without litigation but were not successful.

FACTUAL ALLEGATIONS

1. Plaintiffs are all former poker dealers¹ that worked for Defendants.
2. Plaintiff Kessel worked for Defendants from March 2016 until November 2017.
3. Plaintiff Ramlal worked for Defendants from April 2008 until September 30, 2017.
4. Plaintiff Torres worked for Defendants from April 2008 until November 2017.
5. The class of similarly situated employees employed by Defendants who may become Plaintiffs in this action are current and former employees of Defendants who held the position of dealer.
6. When Defendant Jonas became the owner of Defendant Fronton in May 2014, poker dealers were switched from an hourly rate in excess of the minimum to the tip credit rate of \$5.08 per hour.

¹ Plaintiff Kessel also worked as a supervisor on certain days. The claims in this suit do not include times she worked as a supervisor.

7. From the time Defendant Jonas became the owner of Defendant Fronton in May 2014 until February 2016, Defendants engaged in an improper tip pool practice of automatically deducting 7% from the tips and sharing them with various positions, including those which are not regularly tipped. Accordingly, the tip pool complied with the FLSA.
8. Defendants recklessly failed to investigate whether inclusion of non-tipped employees in the tip pool was permitted.
9. Defendants willfully deprived Plaintiffs and similarly situated employees from earning tips by:
 - a. When table games were introduced (in addition to poker) at the end of every hand, the dealers were initially tipped \$3 by the designated player. Then Defendants' management instructed the designated player to stop tipping the dealers and give the \$3 tip to the house instead.
 - b. Having a practice of making payouts at the cages instead of the table;
 - c. On some occasions, requiring players to wait several days for a payout.
10. Plaintiffs and similarly situated employees being paid at the tip rate of \$5.08 per hour were required to spend in excess of 20% of their shift performing duties incidental to dealing for which they could earn no tips such as

collecting or pulling chip boxes counting chips and waiting for players (also known as a “dead spread”).

11. Defendants purposely created dead spreads by having multiple tables open waiting for players.

12. Plaintiff Kessel, Plaintiff Torres and other similarly situated employees were required to perform duties, which are totally unrelated to dealing such as cleaning for which they were paid at the tip credit rate.

13. Plaintiff Kessel and Plaintiff Torres were required to sign a document agreeing to perform these duties and were advised that if not, the employees would not be scheduled to work.

14. Defendants paid Plaintiffs and similarly situated employees at the tip rate of \$5.08 per hour during various types of trainings when no tips could be earned.

15. Defendants failed to pay Plaintiffs and similarly situated employees on occasions where they forgot to clock out. Specifically, when a dealer forgot to clock out, if they advised management, they were paid for that shift but were then disciplined by losing two shifts, effectively keeping employees who forgot to clock out from requesting to be paid for the hours worked.

COUNT 1 FLSA MINIMUM WAGE CLAIM

(Individual and collective claim)

The foregoing paragraphs are hereby incorporated by reference into this Count.

16.The FLSA mandates that employers compensate non-exempt employees at a minimum wage rate of \$7.25 per hour or the state minimum wage rate, whichever is higher. For 2017, the Florida minimum wage rate was \$8.10.

17.The FLSA 29 U.S.C. §203(m) provides a partial exception allowing Defendants to pay less than the minimum wage to tipped employees so long as certain conditions are met.

18.Without the benefit of the tip credit provision, Defendants must pay each nonexempt employee the statutory minimum wage.

19.Defendants failed to keep a record of when Plaintiffs and similarly situated employees performed tipped and non-tipped work.

20.Defendants paid Plaintiffs and similarly situated employees \$5.08 per hour; they were not paid \$8.10 per hour, which was Florida's minimum wage rate in 2017.

21.Defendants compensation of Plaintiffs and similarly situated employees violated the minimum wage provisions of the FLSA as Defendants did not meet the requirements to claim the tip credit and, therefore, Plaintiffs and

similarly situated employees are entitled to minimum wage for all hours worked.

22. Defendants recklessly failed to investigate whether the manner in which Plaintiffs and similarly situated employees were paid at the tip pool rate complied with the FLSA.

23. Defendants have the burden of proving that they had a good faith and reasonable belief that Plaintiffs and similarly situated employees were being paid correctly.

24. Since Defendants are in possession of the time and pay records, there may be additional payments that violate the tip credit provision but cannot be identified at this time.

WHEREFORE, Plaintiffs, on behalf of themselves and all other similarly situated employees, seek judgment against the Defendants as follows:

- a. That this Court certify that action as a collection action pursuant to 29 U.S.C. §216(b);
- b. Judgment against Defendants for an amount equal to Plaintiffs' and similarly situated employees' wages at the applicable minimum wage rate;
- c. An award of liquidated damages in the amount equal to the award of damages pursuant to 29 U.S.C. §216(b);
- d. Judgment that Defendants' violations were willful;

- e. An award of reasonable attorney's fees and costs incurred by Plaintiffs and similarly situated employees in bringing this action; and
- f. All such further relief as the Court deems just and equitable.

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues.

Dated: June 5, 2018

Respectfully submitted,

/s/Beth Coke

Beth Coke

Fla. Bar. #70726

Beth@cokeemploymentlaw.com

Coke Employment Law

131 N. 2nd Street, Suite 204

Fort Pierce, Fl. 34950

Telephone: (772) 252-4230

Facsimile: (772) 252-4575

Attorney for Plaintiffs

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 KATHY KESSEL, ROSTANT RAMLAL AND WILSON TORRES, Individually, and on behalf DEFENDANTS FRONTON HOLDINGS, LLC, d/b/a FORT PIERCE JAI-ALAI AND POKER, and DAVID

(b) County of Residence of First Listed Plaintiff ST. LUCIE COUNTY (EXCEPT IN U.S. PLAINTIFF CASES) County of Residence of First Listed Defendant ST. LUCIE COUNTY (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) ATTORNEY BETH COKE

COKE EMPLOYMENT LAW

(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 Nation, etc.

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

Large grid for Nature of Suit with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, TORTS, PERSONAL INJURY, LABOR, IMMIGRATION, FORFEITURE/PENALTY, LABOR, 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):

VIII. REQUESTED IN COMPLAINT: LENGTH OF TRIAL via days estimated (for both sides to try entire case) 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 SIGNATURE OF ATTORNEY OF RECORD

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.C.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; 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. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

V. Origin. Place an "X" in one of the seven 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.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

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.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

VI. Related/Refiled Cases. This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

VII. 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

VIII. 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 dollar amount (in thousands of dollars) 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.

Date and Attorney Signature. Date and sign the civil cover sheet.

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

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

KATHY KESSEL, ROSTANT RAMLAL AND
WILSON TORRES, Individually, and on behalf of all
others similarly situated,

Plaintiff(s)

v.

FRONTON HOLDINGS, LLC, d/b/a FORT PIERCE
JAI-ALAI AND POKER, and DAVID JONAS

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) FRONTON HOLDINGS, LLC
CT 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:

ATTORNEY BETH COKE
COKE EMPLOYMENT LAW
131 N. 2ND STREET, SUITE 204
FORT PIERCE, FL. 34950

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

KATHY KESSEL, ROSTANT RAMLAL AND
WILSON TORRES, Individually, and on behalf of all
others similarly situated,

Plaintiff(s)

v.

FRONTON HOLDINGS, LLC, d/b/a FORT PIERCE
JAI-ALAI AND POKER, and DAVID JONAS

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) DAVID JONAS
3500 N.W. 37TH AVENUE
MIAMI, FL. 33142

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:

ATTORNEY BETH COKE
COKE EMPLOYMENT LAW
131 N. 2ND STREET, SUITE 204
FORT PIERCE, FL. 34950

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:

Print

Save As...

Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Former Fort Pierce Jai-Alai and Poker Employees File Suit Over Alleged Wage Violations](#)
