

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

**ANTONY LAMAR MARTE**, individually and  
on behalf of those individuals similarly  
situated,

**Plaintiff,**

- against -

**J C TREE CARE NY CORP., MARTHA  
VELASCO, and JUAN CARLOS,**

**Defendants.**

**COMPLAINT**

Case No.:

**JURY TRIAL DEMANDED**

Plaintiff, **ANTONY LAMAR MARTE** (“Plaintiff”), on behalf of himself and all others similarly situated, by and through his attorneys, **ZABELL & COLLOTTA, P.C.**, complains and alleges as follows:

**I. PRELIMINARY STATEMENT**

1. Plaintiff brings this action on seeking monetary damages, declaratory relief, and affirmative relief based upon Defendants’ violations of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, et seq.; New York Labor Law (“NYLL”), N.Y. Lab. Law § 190, et seq.; New York State Department of Labor Regulations (“NYDOL Regs”), N.Y.C.R.R. § 142-2.2, New York State Business Corporation Law § 630, common law, and other appropriate rules, regulations, statutes, and ordinances.
2. Plaintiff alleges pursuant to the FLSA and NYLL, that he is entitled to recover from Defendants: (1) overtime compensation for all hours worked in excess of forty (40) hours per week; (2) any and all relief due and owing to Plaintiff for Defendants’ failure to maintain employment records; (3) interest on all

compensation Defendants withheld; (4) an award of \$5,000.00, the maximum penalty for violations of NYLL § 195(1); (5) an award of \$5,000.00, the maximum penalty for violations of NYLL § 195(3); (6) liquidated damages; and (7) attorneys' fees and costs where available by statute.

3. Plaintiff further alleges that he is entitled to recover for himself, and on behalf of all similarly situated employees, from Defendants any and all relief due and owing to Plaintiff for Defendants' unlawful conversion of monies rightfully due and owing Plaintiff, and in the alternative, recovery in equity under unjust enrichment, and *quantum meruit*, plus any attorneys' fees and costs associated with such claims.

## II. JURISDICTION AND VENUE

4. This Court maintains jurisdiction over the claims presented herein pursuant to 28 U.S.C. §§ 1331 and 1367.
5. This Court maintains jurisdiction over all state law claims brought in this action pursuant to 28 U.S.C. § 1367 and other appropriate rules, regulations, statutes, and ordinances.
6. This action properly lies in the United States District Court for the Eastern District of New York, pursuant to 28 U.S.C. § 1391, because the conduct alleged herein occurred within the State of New York, in the County of Queens.
7. This Court is empowered to issue declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202.

### COLLECTIVE ACTION ALLEGATIONS

8. This action is properly maintainable as a collective action pursuant to 29 U.S.C. § 216(b).
9. This action is brought on behalf of Plaintiff and a class consisting of similarly situated employees, all of whom work or have worked for Defendants.
10. At all relevant times, Plaintiff and other FLSA collective action Plaintiffs are and have been similarly situated “non-exempt” employees, have had substantially similar job requirements and pay provisions, are and have been subject to Defendants’ decisions, policies, plans and common policies, programs, practices, procedures, protocols, routines, and rules willfully failing and refusing to pay them overtime pay at a rate of one and one-half (1.5) times their regular hourly rate for all hours worked in excess of forty (40) hours per week.
11. Upon information and belief, there are current and former employees who are similarly situated to Plaintiff, all of whom have been underpaid in violation of the FLSA. The named Plaintiff is representative of those other workers and is acting on behalf of Defendants’ current and former employees’ interests as well as his own interests in bringing this action.

12. Plaintiff seeks to proceed as a collective action pursuant to 29 U.S.C. § 216(b) on behalf of himself and all similarly situated persons who work or have worked for Defendants at any time during the six (6) years prior to the filing of their respective consent forms.
13. Plaintiff and potential Plaintiffs who elect to opt-in as part of the collective action are all victims of Defendants' common policy and/or plan to violate the FLSA by failing to provide overtime wages, at the rate of one and one-half (1.5) times the regular rate of pay, for all time worked in excess of 40 hours in any given week pursuant to 29 U.S.C. § 207.
14. The Collective Action Members are similarly situated to Plaintiff in that they were each employed by Defendants as "non-exempt" employees and were systematically denied overtime premium pay for hours worked beyond forty (40) in each workweek.
15. The exact number of such individuals is presently unknown but is known by Defendants and can (and will) be ascertained in the course of discovery.

### III. PARTIES

16. Plaintiff was at all times relevant herein, a domiciliary of the State of New York, residing in Nassau County.
17. At all times relevant to the Complaint, Plaintiff was an "employee" within the meaning of Section 3(e) of the FLSA, 29 U.S.C. § 203(e) and Section 190(2) of the NYLL, N.Y. Lab. Law § 190(2).

18. Upon information and belief, Defendant, **MARTHA VELASCO** (*hereinafter* “Defendant Velasco”), was at all times relevant herein, a domiciliary of the State of New York.
19. Defendant Velasco owns, partly or wholly, **J C TREE CARE NY CORP.**, (*hereinafter* “J C Tree Care”) and its related entities and subsidiaries, and is individually and personally liable for paying Plaintiff’s unpaid wages and other damages.
20. Upon information and belief, Defendant J C Tree Care is a domestic limited liability company operating at 60-61 70<sup>th</sup> Avenue, Ridgewood, New York 11385.
21. Upon information and belief, Defendant J C Tree Care operates as a tree removal business.
22. Upon information and belief, Defendant Velasco was owner and principal of Defendant J C Tree Care, and (1) had the power to hire and fire employees; (2) supervised and controlled employee work schedules and the work environment; (3) determined the rate(s) and method(s) of payment of employees; and (4) maintained employment records for all the related entities.
23. Upon information and belief, Defendant, **JUAN CARLOS** (*hereinafter* “Defendant Carlos”), was at all times relevant herein, a domiciliary of the State of New York.

24. Defendant Carlos owns, partly or wholly, Defendant J C Tree Care and its related entities and subsidiaries, and is individually and personally liable for paying Plaintiff's unpaid wages and other damages.
25. Upon information and belief, Defendant Carlos was owner and principal of Defendant J C Tree Care, and (1) had the power to hire and fire employees; (2) supervised and controlled employee work schedules and the work environment; (3) determined the rate(s) and method(s) of payment of employees; and (4) maintained employment records for all the related entities.
26. At all times relevant to the Complaint, each Defendant acted as an "employer" within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d) and Section 190(3) of the NYLL, N.Y. Lab. Law § 190(3).
27. Upon information and belief, at all times relevant herein, Defendant J C Tree Care was an "enterprise" and performed activities for a business purpose within the meaning of 29 U.S.C. §§ 203(r)(1) and (r)(2), due to its operation of a tree removal business.
28. Upon information and belief, at all times relevant herein, Defendant J C Tree Care employed more than two (2) employees and had a gross annual dollar volume of sales made or business done of not less than five hundred thousand dollars (\$500,000.00) (exclusive of excise taxes at the retail level that are separately stated) due to their respective tree removal business.

29. Upon information and belief, at all times relevant to the Complaint, each Defendant employed more than two (2) employees engaged in interstate commerce within the meaning of 29 U.S.C. § 203(s)(1)(A) in connection with the operation of their respective tree removal business.
30. Upon information and belief, at all times relevant to the Complaint, each Defendant employed employees, including Plaintiff, who regularly were and are presently engaged in commerce or in the production of goods for commerce or in handling, selling or otherwise working on goods and materials which have moved in or been produced for commerce within the meaning of 29 U.S.C. § 2073(b), (g), (i) and (j) in connection with the operation of their respective tree removal business.

#### IV. FACTS

31. Plaintiff repeats and realleges each and every allegation contained herein.
32. Plaintiff was hired by Defendants on or around May 1, 2018 as a “driver” and “laborer”.
33. Plaintiff has worked for Defendants as a “driver” and “laborer” from his date of hire through September 15, 2018.
34. Plaintiff was a “non-exempt” employee who is eligible for overtime premiums for all hours worked in excess of forty (40) per week.

35. From Plaintiff's date of hire through September 15, 2018, he regularly worked six (6) days per week pursuant to the following schedule:
- Monday: 6:00 a.m. – 6:30 p.m.;
  - Tuesday: 6:00 a.m. – 6:30 p.m.;
  - Wednesday: 6:00 a.m. – 6:30 p.m.;
  - Thursday: 6:00 a.m. – 6:30 p.m.;
  - Friday 6:00 a.m. – 6:30 p.m.; and
  - Saturday: 7:00 a.m. – 6:30 p.m.
36. Thus, Plaintiff typically worked seventy-four (74) hours per week.
37. Plaintiff was required to first report to Defendants' yard to pick up a truck and materials each morning.
38. Defendants routinely held Plaintiff after his scheduled shift without compensation.
39. From May 1, 2018 through July 1, 2018, Defendants paid Plaintiff \$160.00 per day.
40. Specifically, between May 1, 2018 through July 1, 2018, Plaintiff was paid at a rate of \$12.80 per hour.
41. As such, Defendants failed to pay Plaintiff at a rate of \$19.20 for all hours worked in excess of forty (40).
42. From July 2, 2018 through September 8, 2018, Defendants paid Plaintiff \$175.00 per day.



43. Specifically, between July 2, 2018 through September 8, 2018, Plaintiff was paid at a rate of \$14.00 per hour.
44. As such, Defendants failed to pay Plaintiff at a rate of \$21.00 for all hours worked in excess of forty (40).
45. Defendants compensated Plaintiff in both check and cash.
46. Plaintiff's paystubs did not reflect: a) the hours he worked per week and b) his hourly rate of compensation.
47. Specifically, Defendants compensated Plaintiff by check for work performed equaling no more than the first forty (40) hours of work per week.
48. Therefore, Defendants paid Plaintiff in cash for all hours worked in excess of forty (40) per week.
49. Defendants failed to compensate Plaintiff at a rate of one and a half (1.5) times his hourly rate for all hours worked in excess of forty (40) per week.
50. Upon information and belief, Defendants maintained no records of cash disbursements to Plaintiff.
51. Defendants failed to maintain time records for all hours worked by Plaintiff.
52. In addition, Defendants refused to provide Plaintiff time off for meal periods as required by law.
53. At all times relevant herein, Plaintiff performed the essential functions of his position in a more than satisfactory manner and satisfied all conditions

precedent to payment in accordance with the established terms and conditions of his employment.

54. Defendants willfully disregarded and purposely evaded record keeping requirements of the FLSA and the NYLL by failing to maintain accurate time and attendance sheets and payroll records.
55. Defendants failed to post notices explaining wage and hour requirements in conspicuous locations as required by the FLSA, 29 C.F.R §516.4 and the NYLL, N.Y.C.R.R. 12 § 137-2.3.
56. During Plaintiff's tenure, Defendants also failed to provide him with written notice of his wage rate, in accordance with the New York State Wage Theft Prevention Act, NYLL § 195(1).
57. In addition, Defendants failed to provide Plaintiff with wage statements, in accordance with NYLL § 195(3).

### CLAIMS FOR RELIEF

#### **FIRST CLAIM FOR RELIEF (Failure to Pay Overtime – FLSA Violation)**

58. Plaintiff repeats and realleges each and every allegation contained herein.
59. Defendants are “employers”, within the meaning contemplated, pursuant to 29 U.S.C. § 203(d).
60. Plaintiff is an “employee” within the meaning contemplated, under 29 U.S.C. § 203(e).

61. Pursuant to 29 U.S.C. § 207, “no employer shall employ any 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, for a workweek longer than forty (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 one-half times the regular rate at which he is employed.”
62. Plaintiff worked in excess of forty (40) hours per week, every week.
63. Plaintiff did not receive overtime compensation at the rate of one and one-half (1.5) times his regular rate of pay for all hours worked in excess of forty (40) hours in any given week.
64. Consequently, by failing to pay overtime compensation, Defendants violated the governing provisions of the FLSA.
65. Upon information and belief, Defendants’ failure to pay overtime compensation was willful.
66. By the foregoing reasons, Defendants are liable to Plaintiff in an amount to be determined at trial, plus liquidated damages in the amount equal to the amount of unpaid wages, interest, attorneys’ fees and costs.

**SECOND CLAIM FOR RELIEF**  
**(Failure to Pay Overtime – New York Labor Law Violation)**

67. Plaintiff repeats and re-alleges each and every allegation contained herein.

68. Defendants are “employers,” within the meaning contemplated, pursuant to NYLL Article 19 § 651(6) and the supporting NYDOL Regs.
69. Plaintiff is an “employee” within the meaning contemplated, pursuant to NYLL Article 19 § 651(5) and the supporting NYDOL Regs.
70. 12 NYCRR §142-2.2 requires that “[a]n employer shall pay an employee for overtime at a wage rate of one and one-half times the employee’s regular rate.”
71. NYLL Article 19 § 663, provides that “[i]f any employee is paid by his employer less than the wage to which he is entitled under the provisions of this article, he may recover in a civil action the amount of any such underpayments, together with costs and such reasonable attorneys’ fees.”
72. Plaintiff worked in excess of forty (40) hours per week.
73. Plaintiff did not receive overtime compensation at a rate of one and one-half (1.5) times the regular rate of pay for all hours worked in excess of forty (40) hours in any given week.
74. Consequently, by failing to pay to overtime compensation, Defendants violated NYLL Article 19 § 663 and 12 NYCRR § 142-2.2.
75. Upon information and belief, Defendants’ failure to pay overtime compensation was willful.
76. By the foregoing reasons, Defendants violated NYLL Article 19 § 663 and 12 NYCRR § 142-2.2 and are liable to Plaintiff in an amount to be determined at trial, plus interest, attorneys’ fees, and costs.

**THIRD CLAIM FOR RELIEF**  
**(New York Wage Theft Prevention Act Violation)**

77. Plaintiff repeat and realleges each and every allegation contained herein.
78. The New York Wage Theft Prevention Act requires employers, upon hire, to notify his or her employees, in writing, at the time of hiring of the rate of pay and of the regular pay day designated by the employer in accordance with section one hundred ninety-one of this article, and obtain a written acknowledgement from each employee of receipt of this notice. Such acknowledgement shall conform to any requirements established by the commissioner with regard to content and form. For all employees who are eligible for overtime compensation as established in the commissioner's minimum wage orders or otherwise provided by law or regulation, the notice must state the regular hourly rate and overtime rate of pay.
79. The New York Wage Theft Prevention Act also requires employers to furnish to employees a statement with every payment of wages, listing the following: the dates of work covered by that payment of wages; name of employee; name of employer; address and phone number of employer; rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; and net wages. For all employees who are not exempt from overtime compensation, the statement must include: the regular hourly rate or rates of pay; the overtime rate or rates of pay; the number of

regular hours worked, and the number of overtime hours worked.

80. Defendants did not provide Plaintiff with wage notice, as required by NYLL § 195(1).
81. Plaintiff did not sign an acknowledgment confirming receipt of said notice, as required by NYLL § 195(1).
82. Further, Defendants failed to provide a wage statement, as required by NYLL §195(3).
83. For the foregoing reasons, Defendants have violated NYLL § 195(1) and § 195(3), and are liable to Plaintiff in an amount to be determined at trial, plus attorneys' fees and costs.

**FOURTH CLAIM FOR RELIEF**  
**(Failure to Maintain Records – FLSA Violation)**

84. Plaintiff repeats and re-alleges each and every allegation contained herein.
85. Upon information belief, Defendants failed to preserve requisite payroll records mandated by Title 29 of the Code of Federal Regulations Part 516.
86. Upon information and belief, Defendants failed to maintain accurate payroll records showing for each employee their, *inter alia*: (1) name as used for Social Security recordkeeping purposes; (2) home address; (3) date of birth; (4) sex and occupation in which employer; (5) time of day and day of week on which the workweek begins; (6) hourly rate of pay, including the basis of pay by indicating the monetary amount paid per hour, per day and per week; (7) hours worked each workday and the total hours worked each workweek; (8) total

wage paid each pay period; and (9) date of wage payment and the pay period covered by the payment.

87. For the foregoing reasons, Defendants violated Title 29 of the Code of Federal Regulations Part 516, thereby entitling Plaintiff and other similarly situated employees, to damages at an amount to be determined at trial, plus interest, litigation costs, and reasonably attorneys' fees, along with injunctive relief.

**FIFTH CLAIM FOR RELIEF**  
**(Failure to Maintain Records – New York Labor Law Violation)**

88. Plaintiff repeats and realleges each and every allegation contained herein.
89. NYLL §§ 195(4) and 661 require employers to establish, maintain, and preserve, for not less than six (6) years, contemporaneous, true, and accurate payroll records for each employee, including (1) payroll records for each week worked the hours worked; (2) the rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other basis; (3) gross wages; (4) deductions; (5) allowances, if any, claimed by the minimum wage; and (6) net wages. N.Y. Lab. Law §§ 195(4) & 661.
90. NYLL §§ 195(4) and 661 requires employers' payroll records to include the (1) regular hourly rate or rates of pay; (2) overtime rate or rates of pay; (3) number of regular hours worked; and (4) number of overtime hours worked. N.Y. Lab. Law §§ 195(4) & 661.
91. Upon information and belief, Defendants failed to maintain true and accurate payroll records for Plaintiff for the applicable statutory period.

92. By the forgoing reasons, Defendants violated N.Y. Lab. Law §§ 195(4) & 661 and are liable to Plaintiff in an amount to be determined at trial, plus interest, attorney' fees, and costs.

**SIXTH CLAIM FOR RELIEF**  
**(Conversion)**

93. Plaintiff repeats and re-alleges each and every allegation contained herein.
94. Defendants failed to compensate Plaintiff for wages earned during the course of his employment with Defendants.
95. As a result, Defendants wrongfully interfered with the rights of Plaintiff to immediate possession of the full amount of these wages.
96. As a direct result of Defendants' unlawful conversion of Plaintiff's compensation and all to which he was (and is) entitled to immediate possession, Plaintiff has suffered, and continue to suffer, substantial economic damages.
97. Defendants' unlawful conduct was knowing, malicious, willful and wanton and/or showed a reckless disregard for Plaintiff, warranting an award of damages against Defendants.

**SEVENTH CLAIM FOR RELIEF**  
**(Failure to Provide Proper Meal Periods – New York Labor Law Violation)**

98. Plaintiff repeats and realleges each and every allegation contained herein.
99. Plaintiff and, upon information and belief, those individuals similarly situated, were employed in connection with Defendants' Company.



100. Plaintiff and, upon information and belief, those individuals similarly situated, worked shifts of more than six (6) hours that extended over the noon day meal period.
101. However, Defendants failed to provide Plaintiff, and, upon information and belief, those individuals similarly situated, with a meal period, in violation of NYLL § 162(2).
102. Upon information and belief, the New York Commissioner of Labor did not issue authority to Defendants to provide shorter meal periods, or no meal periods at all, to Plaintiff pursuant to NYLL § 162(5).
103. By the foregoing reasons, Defendants have violated 12 NYCRR § 142-2.4 and are liable to Plaintiff, and those individuals similarly situated, in an amount to be determined at trial, plus interest, attorneys' fees, and costs.

**EIGHTH CLAIM FOR RELIEF**  
**(Unjust Enrichment and *Quantum Meruit*)**  
**(Plead in the Alternative)**

104. Plaintiff repeats and re-alleges each and every allegation contained herein.
105. Plaintiff performed numerous and valuable services at the behest of and on behalf of Defendants.
106. Plaintiff was not paid for the reasonable value of those services.
107. Defendants are unjustly enriched by withholding monies earned by and rightfully belonging to Plaintiff.

108. By reason of the forgoing, Defendants are liable to Plaintiff in an amount to be determined at trial.

**V. DEMAND FOR JURY TRIAL**

109. Plaintiff repeats and realleges each and every allegation contained herein.

110. Plaintiff hereby demands a trial by jury.

**WHEREFORE**, as a result of the unlawful conduct and actions of Defendants herein alleged, Plaintiff and those individuals similarly situated, respectfully request this Court grant the following relief:

- a) On the First, Second, Fourth, Fifth, Sixth, Seventh, and Eighth Claims for Relief, an award of Plaintiff's actual damages in an amount to be determined at trial plus interest;
- b) On the Third Claim for Relief, an award up to \$5,000.00, the maximum penalty for violations of NYLL § 195(1);
- c) On the Third Claim for Relief, an award up to \$5,000.00, the maximum penalty for violations of NYLL § 195(3);
- d) Declare Defendants violated the FLSA and NYLL;
- e) Enjoin Defendants from further acts in violation of the FLSA and NYLL;
- f) An award of liquidated damages where allowed by statute;
- g) Defendants be ordered to pay Plaintiff pre and post judgment interest;
- h) Defendants to pay all costs and disbursements of this action, including Plaintiff's attorneys' fees; and

i) Order such other and further relief as may be just and proper.

Dated: Bohemia, New York  
October 15, 2018

**ZABELL & COLLOTTA, P.C.**  
*Attorneys for Plaintiff*

By: \_\_\_\_\_

Christopher K. Collotta, Esq.  
1 Corporate Drive, Suite 103  
Bohemia, NY 11716  
Tel. (631) 589-7242  
Fax (631) 563-7475  
Ccollotta@laborlawsny.com

**NOTICE TO SHAREHOLDER PURSUANT TO SECTION 630  
OF THE NEW YORK BUSINESS CORPORATION LAW**

**TO: Juan Carlos**  
c/o J C Tree Care NY Corp.  
60-61 70<sup>th</sup> Avenue, 3<sup>rd</sup> Floor  
Ridgewood, New York, 11385

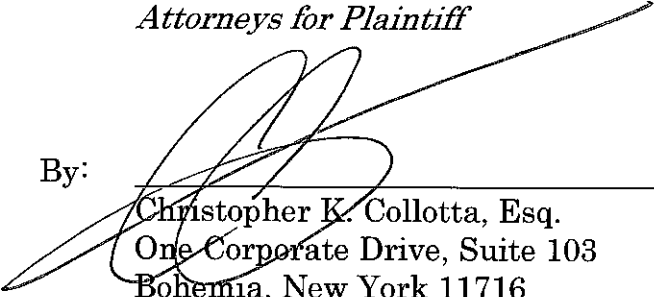
**Re: Antony Lamar Marte vs. J C Tree Care NY Corp., et al.**

**PLEASE TAKE NOTICE**, that the above-named individual, Juan Carlos, if he is a shareholder of J C Tree Care NY Corp., is hereby advised pursuant to Section 630 of the New York Business Corporation Law that the Plaintiff, acting individually and on behalf of those similarly situated, having been employed by the above corporate entity, intends to hold said shareholder personally liable for unpaid wages.

Dated: Bohemia, New York  
October 15, 2018

**ZABELL & COLLOTTA, P.C**  
*Attorneys for Plaintiff*

By: \_\_\_\_\_

  
Christopher K. Collotta, Esq.  
One Corporate Drive, Suite 103  
Bohemia, New York 11716  
Tel.: (631) 589-7242  
Fax: (631) 563-7475  
CCollotta@laborlawsny.com

**NOTICE TO SHAREHOLDER PURSUANT TO SECTION 630  
OF THE NEW YORK BUSINESS CORPORATION LAW**

**TO: Martha Velasco**  
c/o J C Tree Care NY Corp.  
60-61 70<sup>th</sup> Avenue, 3<sup>rd</sup> Floor  
Ridgewood, New York, 11385

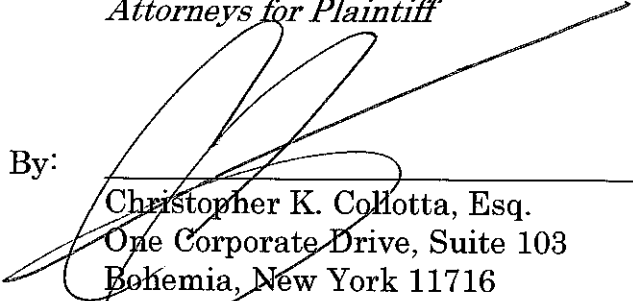
**Re: Antony Lamar Marte vs. J C Tree Care NY Corp., et al.**

**PLEASE TAKE NOTICE**, that the above-named individual, Martha Velasco, if she is a shareholder of J C Tree Care NY Corp., is hereby advised pursuant to Section 630 of the New York Business Corporation Law that the Plaintiff, acting individually and on behalf of those similarly situated, having been employed by the above corporate entity, intends to hold said shareholder personally liable for unpaid wages.

Dated: Bohemia, New York  
October 15, 2018

**ZABELL & COLLOTTA, P.C**  
*Attorneys for Plaintiff*

By: \_\_\_\_\_

  
Christopher K. Collotta, Esq.  
One Corporate Drive, Suite 103  
Bohemia, New York 11716  
Tel.: (631) 589-7242  
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[CCollotta@laborlawsny.com](mailto:CCollotta@laborlawsny.com)

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
ANTONY LAMAR MARTE, individually and on behalf of those individuals similarly situated,

DEFENDANTS
J C TREE CARE NY CORP., MARTHA VELASCO, and JUAN CARLOS,

(b) County of Residence of First Listed Plaintiff Nassau (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Queens (IN U.S. PLAINTIFF CASES ONLY)

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
Christopher K. Collotta, Esq.
Zabell & Collotta, P.C., 1 Corporate Dr., Ste. 103, Bohemia, NY 11716 (631) 589-7242

Attorneys (If Known)
Unknown

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

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 U.S.C. § 201 et seq.

Brief description of cause:
Violations of the Fair Labor Standards Act of 1938

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ TBD

CHECK YES only if demanded in complaint:
JURY DEMAND: X Yes [ ] No

VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

10/15/2018

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

**CERTIFICATION OF ARBITRATION ELIGIBILITY**

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Christopher K. Collotta, counsel for Plaintiff, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

**DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1**

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

**RELATED CASE STATEMENT (Section VIII on the Front of this Form)**

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

**NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)**

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? No
- 2.) If you answered "no" above:
  - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? No
  - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? N/A

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

**BAR ADMISSION**

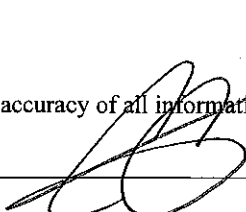
I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

- Yes
- No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

- Yes (If yes, please explain)
- No

I certify the accuracy of all information provided above.

Signature: 

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

ANTONY LAMAR MARTE, individually and on behalf of those individuals similarly situated,

Plaintiff(s)

v.

J C TREE CARE NY CORP., MARTHA VELASCO, and JUAN CARLOS,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) J C Tree Care NY Corp. 60-61 70th Avenue, 3rd Floor Ridgewood, New York, 11385

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: Christopher K. Collotta, Esq. Zabell & Collotta, P.C. 1 Corporate Drive, Suite 103 Bohemia, NY 11716 Tel: (631) 589-7242

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.

DOUGLAS C. PALMER 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**

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

ANTONY LAMAR MARTE, individually and on behalf of those individuals similarly situated,

Plaintiff(s)

v.

J C TREE CARE NY CORP., MARTHA VELASCO, and JUAN CARLOS,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Juan Carlos c/o J C Tree Care NY Corp. 60-61 70th Avenue, 3rd Floor Ridgewood, New York, 11385

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: Christopher K. Collotta, Esq. Zabell & Collotta, P.C. 1 Corporate Drive, Suite 103 Bohemia, NY 11716 Tel: (631) 589-7242

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.

DOUGLAS C. PALMER 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**

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

ANTONY LAMAR MARTE, individually and on behalf of those individuals similarly situated,

Plaintiff(s)

v.

J C TREE CARE NY CORP., MARTHA VELASCO, and JUAN CARLOS,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Martha Velasco c/o J C Tree Care NY Corp. 60-61 70th Avenue, 3rd Floor Ridgewood, New York, 11385

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: Christopher K. Collotta, Esq. Zabell & Collotta, P.C. 1 Corporate Drive, Suite 103 Bohemia, NY 11716 Tel: (631) 589-7242

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.

DOUGLAS C. PALMER 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))*

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\_\_\_\_\_ 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: [JC Tree Care NY Sued by Former Employee Over Allegedly Unpaid Overtime Wages](#)

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