

**IN THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MARYLAND  
(Greenbelt Division)**

ESTELA PONCE LOEZA  
5634 Whitfield Chapel Road, Apt. 303  
Lanham, MD 20706  
(Prince George's County)

Plaintiff, on behalf of herself and  
all similarly situated individuals,  
v.

ANNAPOLIS ROAD SERVICES, INC.  
7303 Hanover Parkway, Suite A  
Greenbelt, MD 20770  
(Prince George's County)

Defendant.

Case No. \_\_\_\_\_

**COLLECTIVE ACTION AND CLASS  
ACTION REQUESTED**

**COMPLAINT**

**INTRODUCTION**

1. Defendant owns and operates Prince George's County roadside service station. Defendant employed Plaintiff as a car washer. Defendant paid Plaintiff her regular rate across all hours worked, including overtime hours.
2. Plaintiff brings this action to recover damages for Defendant's willful failure to pay overtime wages, in violation of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.*, the Maryland Wage and Hour Law ("MWHL"), Md. Code, Lab. & Empl. Art., § 3-401 *et seq.*, and the Maryland Wage Payment and Collection Law ("MWPCCL"), Md. Code, Lab. & Empl. Art., § 3-501 *et seq.*
3. Plaintiff brings her FLSA claim as a "collective action" pursuant to 29 U.S.C. § 216(b). Plaintiff brings her MWHL and MWPCCL claims as a class action pursuant to Fed. R. Civ. P.

23(b)(3). The “collective action” is brought on behalf of **Defendant’s employees who, since December 1, 2013, were not paid one and one-half times their regular hourly rate for hours worked in excess of 40 in any one workweek, in violation of the FLSA.** The Rule 23 class action is brought on behalf of **Defendant’s employees who, since December 1, 2013, were not paid one and one-half times their regular hourly rate for hours worked in excess of 40 in any one workweek, in violation of the MWHL.**

#### **JURISDICTION AND VENUE**

4. Jurisdiction is proper pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 1367 (supplemental jurisdiction).

5. Venue is proper pursuant to 28 U.S.C. § 1391(b), because Defendant resides in this district and division, and a substantial part of the acts or omissions giving rise to Plaintiff’s claims occurred in this district and division.

#### **PARTIES**

6. Plaintiff is an adult resident of Prince George’s County, Maryland.

7. Defendant Annapolis Road Services, Inc. is a Maryland corporation. Its principal office is registered as 7303 Hanover Parkway, Suite A, Greenbelt, MD 20770. It operates a roadside service station at 9105 Annapolis Road, Lanham, MD 20706. The service station has a gas station, car wash, and a restaurant. Defendant is owned and operated by Riaz Ahmad. Its resident agent for service of process is Riaz Ahmad, 7303 Hanover Parkway, Suite A, Greenbelt, Maryland 20770.

## **FACTUAL ALLEGATIONS**

### **Facts Common to All Similarly Situated Individuals**

8. Defendant employed Plaintiff and similarly situated individuals at its roadside service station, located at 9105 Annapolis Road, Lanham, MD 20706.
9. Plaintiff and similarly situated individuals typically performed manual labor.
10. Plaintiff and similarly situated individuals performed labor such as washing and drying car exteriors, vacuuming and cleaning car interiors, cooking and preparing food, operating cash registers, and cleaning the service station.
11. Plaintiff and similarly situated individuals often worked more than 40 hours each and every workweek.
12. Plaintiff and similarly situated individuals typically worked between 40 hours and 52 hours per workweek.
13. Plaintiff and similarly situated individuals always clocked in and out of work with a punch clock.
14. Plaintiff and similarly situated individuals used their fingerprint to clock in and out of work.
15. Plaintiff and similarly situated individuals were paid by the hour.
16. Plaintiff and similarly situated individuals were typically paid approximately \$7.25 per hour from December 1, 2013 through September 30, 2014, \$8.40 from October 1, 2014 through September 30, 2015, \$9.55 from October 1, 2015 through September 30, 2016, and \$10.75 per hour from October 1, 2016 through the present.
17. Plaintiff and similarly situated individuals received a paystub with a check that stated their hourly rate.

18. Plaintiff and similarly situated individuals were paid once a week.
19. Plaintiff and similarly situated individuals were paid with a check for the regular hours and cash for their overtime hours.
20. Plaintiff and similarly situated individuals did not earn overtime wages for their overtime hours. Rather, Plaintiff and similarly situated individuals were paid their regular hourly rate for each of their overtime hours.
21. At all relevant times, the annual gross volume of Defendant's business exceeded \$500,000.00.
22. At all relevant times, Defendant had two or more employees who handled goods and/or materials that had travelled in or been produced for interstate commerce.
23. At all relevant times, Defendant had the power to hire and fire Plaintiff and similarly situated individuals.
24. At all relevant times, Defendant had the power to control the work schedule of Plaintiff and similarly situated individuals.
25. At all relevant times, Defendant had the power to set the rate of pay of Plaintiff and similarly situated individuals.
26. Defendant owes Plaintiff and similarly situated individuals approximately **\$60,000.00** in unpaid overtime wages.

**Facts Specific to Estela Ponce Loeza**

27. Plaintiff Ponce Loeza worked for Defendant from approximately April 1, 2015 until approximately September 25, 2016.
28. Plaintiff Ponce Loeza washed cars.
29. Plaintiff Ponce Loeza performed work duties such as cleaning and drying cars.

- 30. Plaintiff Ponce Loeza typically worked six days a week.
- 31. Plaintiff Ponce Loeza typically and customarily worked more than 40 hours in a workweek.
- 32. Plaintiff Ponce Loeza typically worked 52 hours in a workweek.
- 33. Plaintiff Ponce Loeza typically worked the following schedule:

	<b>Start Time</b>	<b>End Time</b>	<b>Hours Worked</b>
Monday	9:00 a.m.	5:00 p.m.	8.0 hours
Tuesday	9:00 a.m.	5:00 p.m.	8.0 hours
Wednesday	Off		
Thursday	9:00 a.m.	5:00 p.m.	8.0 hours
Friday	8:00 a.m.	6:00 p.m.	10.0 hours
Saturday	8:00 a.m.	6:00 p.m.	10.0 hours
Sunday	9:00 a.m.	5:00 p.m.	8.0 hours
	<b>Total</b>		52.0 hours

- 34. Plaintiff Ponce Loeza was paid \$8.50 per hour from approximately April 1, 2015 through approximately September 28, 2015, and \$9.55 per hour from approximately September 29, 2015 through approximately September 25, 2016.
- 35. Plaintiff Ponce Loeza was not paid overtime wages. Rather, Plaintiff Ponce Loeza was paid her regular hourly rate across all hours worked, including her overtime hours.
- 36. Defendant paid Plaintiff Ponce Loeza her regular hours by check and her overtime hours in cash.
- 37. Defendant owes Plaintiff Ponce Loeza approximately **\$2,000.00** in unpaid overtime wages.

**“COLLECTIVE ACTION” ALLEGATIONS**

- 38. Plaintiff incorporates the foregoing paragraphs as if fully restated herein.
- 39. This action is maintainable as an “opt-in” collective action pursuant to the FLSA, 29 U.S.C. §216(b).

40. At all relevant times, Defendant employed approximately 15 employees at any given time.

41. Plaintiff brings her FLSA claims on her own behalf, and on behalf of: **Defendant's employees who, since December 1, 2013, were not paid one and one-half times their regular hourly rate for hours worked in excess of 40 in any one workweek, in violation of the FLSA.**

42. These individuals are similarly situated because:

- a. They were all paid by the hour.
- b. They were all subject to the same timekeeping practices and employment policies.
- c. They all regularly worked overtime.
- d. They were all paid their regular hourly rate for their overtime hours.
- e. They all had similar, non-exempt job duties that generally involved manual labor.
- f. They all worked at the same job location.
- g. They were all paid in the same manner.

43. On information and belief, the putative collective class consists of at least 45 past and present employees.

44. On information and belief, Defendant owes the members of the putative collective action approximately **\$120,000.00** in unpaid wages and liquidated damages under the FLSA.

#### **CLASS ACTION ALLEGATIONS**

45. Plaintiff incorporates the foregoing paragraphs as if fully stated herein.

46. This action is maintainable as an "opt-out" class action pursuant to Federal Rule of Civil Procedure 23.

47. Plaintiff brings her MWHL and MWPCCL claims on her own behalf, and on behalf of: **Defendant's employees who, since December 1, 2013, were not paid one and one-half times their regular hourly rate for hours worked in excess of 40 in any one workweek, in violation of the MWHL.**

48. On information and belief, the putative class consists of approximately 45 past and present employees.

49. On information and belief, Defendant owes the members of the putative class action approximately **\$180,000.00** in unpaid wages and liquidated damages under the MWHL and MWPCCL.

#### **Numerosity and the Impracticability of Joinder**

50. The putative class is so numerous that individual joinder of all members is impracticable.

51. The putative class consists of approximately 45 individuals.

52. Most putative class members are from foreign countries, including El Salvador, Honduras, Guatemala, and Mexico.

53. Many putative class members are applying for residency or citizenship, for which they may depend on a reference from Defendant.

54. Putative class members live in multiple judicial jurisdictions, including Maryland, Virginia, and the District of Columbia.

55. Most putative class members do not speak, read, or write English.

56. Virtually all putative class members are low-wage workers.

57. Many putative class members have claims so small that it would not be feasible for them to pursue their claims independently.

58. Most putative class members are unfamiliar with Maryland's overtime laws or the FLSA. The members of the putative class are uniformly unaware that they may be entitled to unpaid overtime wages.

59. Many members of the putative class sincerely believe that they will be fired if they take any affirmative steps to join this lawsuit.

### **Commonality**

60. All putative class members performed similar, non-exempt job duties that involved manual labor.

61. All putative class members were subject to the same timekeeping practices and employment policies.

62. All putative class members reported to the same job location.

63. The employment of all putative class members is subject to the same relevant laws: the FLSA, the MWHL, and the MWPCCL.

64. All putative class members were paid their regular hourly rate for their overtime hours.

65. All putative class members were paid in the same manner.

66. Not only are there common questions of law and fact; each putative class members' claims are virtually *identical*. Differences between the amounts owed to each Plaintiff may be resolved by a simple formula that takes into account their regular rate of pay and number of hours worked.

### **Typicality / Adequacy**

67. Plaintiff is typical of the putative class members. She performed similar job duties as fellow class members; she worked schedules similar to her fellow class members; and she was paid in the same manner as her fellow class members.



68. There is no reason that Plaintiff would not vigorously pursue the claims of the putative class.

69. Undersigned counsel has litigated over 100 cases in state and federal court that implicate the. He has been lead counsel in class, collective, and “hybrid” (class + collective) actions.

70. There is no reason undersigned counsel would not vigorously pursue the claims of the putative class.

### **Predominancy / Superiority**

71. As stated above, the questions of fact and law are nearly identical between putative class members.

72. It is far more efficient to litigate the claims of the putative class in one single case than it would be for the Court to preside over dozens of nearly identical lawsuits.

73. Given the demographic characteristics of the putative class, it is in the interests of putative class members to litigate these claims as efficiently as possible.

74. Separate actions would only serve to limit Defendant’s liability at the expense of the rights provided to low-wage workers under the MWHL and MWPCCL.

### **COUNT I**

#### **FAILURE TO PAY OVERTIME WAGES UNDER THE FLSA**

75. Plaintiff incorporates the foregoing paragraphs as if fully restated herein.

76. Plaintiff and similarly situated individuals were “employees” of Defendant within the meaning the FLSA, 29 U.S.C. § 203(e)(1).

77. Plaintiff and similarly situated individuals were “non-exempt” employees of Defendant within the meaning of the FLSA, 29 U.S.C. § 213.

78. Defendant was an “employer” of Plaintiff and similarly situated individuals within the meaning of the FLSA, 29 U.S.C. § 203(d).

79. The FLSA requires employers to pay non-exempt employees one and one-half times their effective regular hourly rate for hours worked in excess of 40 hours in any one workweek. 29 U.S.C. § 207(a)(1).

80. Defendant violated the FLSA by knowingly failing to pay Plaintiff and similarly situated individuals at least one and one-half times their regular hourly rate for hours worked in excess of 40 hours in any one workweek.

81. Defendant’s violations of the FLSA were willful.

82. For its FLSA violations, Defendant is liable to Plaintiff and similarly situated individuals for unpaid overtime wages, an equal amount as liquidated damages, court costs, reasonable attorney’s fees and expenses, interest, and any other relief deemed appropriate by the Court.

## **COUNT II**

### **FAILURE TO PAY OVERTIME WAGES UNDER THE MWHL**

83. Plaintiff incorporates the foregoing paragraphs as if fully stated herein.

84. Defendant was an “employer” of Plaintiff and similarly situated individuals within the meaning of the MWHL, Md. Code, Lab. & Empl. Art. § 3-401(b).

85. The MWHL requires employers to pay non-exempt employees one and one-half times their regular hourly rate for hours worked in excess of 40 hours in any one workweek. Md. Code, Lab. & Empl. Art. § 3-415.

86. Defendant violated the MWHL by knowingly failing to pay Plaintiff and similarly situated individuals at least one and one-half times their regular hourly rate for hours worked in excess of 40 hours in any one workweek.

87. Defendant's violations of the MWHL were willful.

88. For its MWHL violations, Defendant is liable to Plaintiff and similarly situated individuals for unpaid overtime wages, an equal amount as liquidated damages, court costs, reasonable attorney's fees and expenses, interest, and any other relief deemed appropriate by the Court.

### **COUNT III**

#### **FAILURE TO PAY WAGES UNDER THE MWPCCL**

89. Plaintiff incorporates the foregoing paragraphs as if fully stated herein.

90. Defendant was an "employer" of Plaintiff and similarly situated individuals within the meaning of the MWPCCL, Md. Code, Lab. & Empl. Art., § 3-501(b).

91. The MWPCCL requires employers to promptly pay employees "all compensation that is due to an employee for employment." Md. Code, Lab. & Empl. Art., § 3-501(c)(1).

92. The "compensation" required to be paid by the MWPCCL includes overtime wages. Peters v. Early Healthcare Giver, Inc., 439 Md. 646, 654 (Md. 2014).

93. Defendant violated the MWPCCL by knowingly failing to promptly pay Plaintiff and similarly situated individuals all compensation that was due to them.

94. Defendant's violations of the MWPCCL were willful.

95. For its MWPCCL violations, Defendant is liable to Plaintiff and similarly situated individuals for three times the amount of the unpaid wages, court costs, reasonable attorney's fees and expenses, interest, and any other relief deemed appropriate by the Court.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, on behalf of herself and all similarly situated individuals, respectfully requests that this Court enter judgment against Defendant on all counts, and grant the following relief:

- a. Award Plaintiff and similarly situated individuals **\$180,000.00** in damages, comprised of the following overlapping elements:
  - i. unpaid overtime wages, plus an equal amount as liquidated damages, pursuant to the FLSA, 29 U.S.C. § 216;
  - ii. unpaid overtime wages, plus an equal amount as liquidated damages, pursuant to the MWHL, Md. Code, Lab. & Empl. Art., § 3-427;
  - iii. three times the amount of the unpaid wages, pursuant to the MWPCCL, Md. Code, Lab. & Empl. Art., 3-507.2;
- b. Award Plaintiff and similarly situated individuals pre-judgment and post-judgment interest as permitted by law.
- c. Award Plaintiff and similarly situated individuals reasonable attorney's fees and expenses incurred in the prosecution of this action;
- d. Award Plaintiff and similarly situated individuals court costs; and
- e. Award any additional relief the Court deems just.

Date: 12/6/2016

Respectfully submitted,

/s/Justin Zelikovitz, Esq.  
Justin Zelikovitz, #17567  
Law Office of Justin Zelikovitz, PLLC  
519 H Street NW  
Washington, DC 20001  
Phone: (202) 803-6083  
Fax: (202) 683-6102  
justin@dcwagelaw.com

*Counsel 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 NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
Estela Ponce Loeza
5634 Whitfield Chapel Road, Apt. 303
Lanham, MD 20706
(b) County of Residence of First Listed Plaintiff Prince George's County
(c) Attorneys (Firm Name, Address, and Telephone Number)
Justin Zelikovitz, Esq., Law Office of Justin Zelikovitz, PLLC, 519 H Street NW, Washington, DC 20001
202-803-6083

DEFENDANTS
Annapolis Road Services, Inc.
7303 Hanover Parkway, Suite A
Greenbelt, MD 20770
County of Residence of First Listed Defendant Prince George's County
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

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
PTF DEF
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, 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 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

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:
Failure to pay overtime wages under both the FLSA and Maryland law.

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 180,000.00
CHECK YES only if demanded in complaint: JURY DEMAND: Yes x No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER

DATE 12/06/2016 SIGNATURE OF ATTORNEY OF RECORD /s/ Justin Zelikovitz, Esq.

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT

for the

District of Maryland



ESTELA PONCE LOEZA

Plaintiff(s)

v.

ANNAPOLIS ROAD SERVICES, INC.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) ANNAPOLIS ROAD SERVICES, INC.
C/O RIAZ AHMAD
7303 Hanover Parkway, Suite A
Greenbelt, MD 20770

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:

Justin Zelikovitz, Esq.
Law Office of Justin Zelikovitz, PLLC
519 H Street NW
Washington, DC 20001

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: [Annapolis Road Services Paved with Unpaid Overtime Class Action](#)

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