

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION**

EDUARDO LOPEZ, for himself and on  
behalf of those similarly situated,

Plaintiff,

CASE NO.:

vs.

REAL MONARCA INC, a Florida Profit  
Corporation, d/b/a MONARCA'S  
AUTHENTIC MEXICAN CUISINE  
BAR & GRILL, and GUILLERMO  
CUEVAS, Individually,

\_\_\_\_\_ /  
Defendants.

**COMPLAINT & DEMAND FOR JURY TRIAL**

Plaintiff, EDUARDO LOPEZ ("Plaintiff"), for himself and on behalf of those similarly situated, through undersigned counsel, files this Complaint against Defendants, REAL MONARCA INC. d/b/a MONARCA'S AUTHENTIC MEXICAN CUISINE BAR & GRILL ("MONARCA"), a Florida Profit Corporation, and GUILLERMO CUEVAS, Individually ("CUEVAS") (collectively "Defendants") and states as follows:

**JURISDICTION**

1. Jurisdiction in this Court is proper as the claims are brought pursuant to the Fair Labor Standards Act ("FLSA"), as amended 29 U.S.C. §201, et seq., to obtain judgment against Defendants as to liability, and to recover unpaid back wages, an additional equal amount as liquidated damages, and reasonable attorneys' fees and costs.

2. The jurisdiction of the Court over this controversy is proper pursuant to 28 U.S.C. §1331, as Plaintiff's claims arise under 29 U.S.C. §216(b).

## **INTRODUCTION**

1. Plaintiff brings this action pursuant to 29 U.S.C. § 216(b) and 29 U.S.C. §206 and §207.

2. The Defendant in this case violated the FLSA by failing to pay Plaintiff and other similarly-situated servers and bartenders the proper minimum wage and overtime compensation for all hours worked.

3. This action is intended to include each and every hourly-paid server/bartender who worked for Defendant at any time within the past three (3) years.

4. The jurisdiction of the Court over this controversy is proper pursuant to 28 U.S.C. § 1331 as these claims arise under 29 U.S.C. §216(b).

## **PARTIES**

5. At all times material to this action, Plaintiff was a resident of Lee County, Florida.

6. At all times material to this action, Defendant MONARCA was, and continues to be a Florida Profit Corporation. Further, at all times material hereto, Defendant MONARCA was, and continues to be, engaged in business in Florida, doing business in Lee County.

7. At all times material to this action, Defendant CUEVAS was an individual resident of the State of Florida, who owned and operated Defendant MONARCA, and who regularly exercised the authority to (a) hire and fire employees of Defendant MONARCA; (b) determine the work schedules for the employees of Defendant MONARCA; and (c) control the finances and operations of Defendant MONARCA.

8. By virtue of having held and/or exercised the authority to: (a) hire and fire employees of MONARCA; (b) determine the work schedules for the employees of MONARCA; and (c) control the finances and operations of MONARCA, Defendant, CUEVAS, is an employer as defined by 29 U.S.C. §201 *et. seq.*

9. At all times material to this action, Plaintiff was an “employee” of Defendants within the meaning of the FLSA.

10. At all times material to this action, Defendants were Plaintiff’s “employers” within the meaning of the FLSA.

11. Defendants were, and continue to be, “employers” within the meaning of the FLSA.

12. At all times material to this action, Defendant, MONARCA, was, and continues to be, an “enterprise engaged in commerce” and an enterprise engaged in the “handling, selling, or otherwise working in goods or materials that have been moved or produced for commerce by any person” within the meaning of the FLSA.

13. Based upon information and belief, the annual gross revenue of Defendants was in excess of \$500,000.00 per annum during the relevant time periods.

14. At all times material to this action, Defendants had two (2) or more employees handling, selling, or otherwise working on goods or materials that had been moved in or produced for commerce, such as cleaning supplies, office supplies, cash registers, food products, and telephones.

15. At all times material hereto, the work performed by the Plaintiff was directly essential to the business performed by Defendants.

**STATEMENT OF FACTS**

16. On or about April 26, 2014, Defendants hired Plaintiff to work as a non-exempt hourly-paid server and bartender for Defendants' company, a restaurant, at its location in Cape Coral, Florida. Plaintiff was employed by Defendants in this position until May 17, 2017.

17. Plaintiff's job duties included, but were not limited to, preparing drinks and serving food and drinks to Defendants' customers.

18. Defendants paid Plaintiff the tipped minimum wage rather than the regular minimum wage for all hours worked.

19. Furthermore, for most of his hours, Plaintiff was paid pursuant to the FLSA "tip credit" method per hour in exchange for worked performed.

20. Defendants failed to provide proper notice of Defendants' intent to claim the tip credit or regarding requirements related to tip pooling, as required by 29 U.S.C. §203(m).

21. Plaintiff, and those similarly situated, were/are entitled to the Florida minimum wage pursuant to §206(a) of the FLSA.

22. Defendants have violated Title 29 U.S.C. §206 during the three years preceding the filing of the Complaint in this matter, in that:

- a. Defendants have failed to pay Plaintiff, and those similarly situated, proper minimum wage for all of their hours worked for Defendants as required by the FLSA;
- b. No payments, or insufficient payments and/or provisions for payment, have been made by Defendants to properly compensate

Plaintiff and those similarly situated at a rate equal to the minimum wage, for all hours worked;

- c. Defendants failed to provide Plaintiff and those similarly situated with the statutorily required notice under 29 U.S.C. §203(m); and
- d. Defendants have failed to maintain proper time records as mandated by the FLSA.

23. Plaintiff and those similarly situated were/are entitled to the Florida minimum wage pursuant to §29 C.F.R. §778.5.

24. At various times material hereto, Plaintiff worked for Defendants in excess of forty (40) hours within a workweek during the three years preceding the date the Complaint is filed in this matter.

25. Upon information and belief, other of Defendant's servers/bartenders also worked forty or more hours in a workweek during the three years preceding the date the Complaint is filed in this matter.

26. From at least April 26, 2014, and continuing through May 17, 2017, Defendants failed to compensate Plaintiff, and those similarly situated, at a rate of one and one-half times their regular rate for all hours worked in excess of forty (40) hours in a single workweek.

27. Plaintiff, and those similarly situated to Plaintiff, should be compensated at the rate of one and one-half times their regular rate for all hours that Plaintiff worked in excess of forty (40) hours per workweek, as required by the FLSA.

28. Upon information and belief, the majority of Plaintiff's pay and time records are in the possession of Defendants.

29. Defendants have violated Title 29 U.S.C. §207 from at least April 26, 2014 continuing through May 17, 2017, in that:

- a. Plaintiff and those similarly situated to Plaintiff worked in excess of forty (40) hours in one or more workweeks for the period of employment with Defendants;
- b. No payments or provisions for payment have been made by Defendants to properly compensate Plaintiff and those similarly situated at the statutory rate of one and one-half times their regular rate for all hours worked in excess of forty (40) hours per workweek, as provided by the FLSA; and
- c. Defendants have failed to maintain proper time records as mandated by the FLSA.

30. Defendants' failure and/or refusal to properly compensate Plaintiff at the rates and amounts required by the FLSA was willful, as Defendants willfully altered Plaintiff's time records, as well as the time records of the other servers and bartenders.

31. The additional persons who may join this action are those similarly situated to Plaintiff, who worked for Defendants in the three years preceding this Complaint, who were also not paid for overtime hours, and/or were not paid appropriate minimum wages and/or overtime compensation due to Defendants' policies and practices as described above.

32. Defendants failed and/or refused to properly disclose or apprise Plaintiff of his rights under the FLSA.

**COLLECTIVE ACTION ALLEGATIONS**

33. Plaintiff and the class members were all “servers and bartenders” and performed the same or similar job duties as one another in that they provided food and beverage services to Defendants’ patrons.

34. Plaintiff and the class members were subjected to the same pay provisions in that they were all paid pursuant to the “tip credit” provisions of the FLSA and were not compensated at least the proper minimum wage and overtime for all hours worked as a result of Defendants’ common policies and practices, including but not limited to:

- a. Failure to provide proper notice of Defendants’ intent to claim the tip credit or regarding requirements for the tip pool, as required by 29 U.S.C. §203(m);
- b. Systematic deletion of regular and overtime hours logged into the timekeeping system.

35. Defendants’ uniform method of payment to Plaintiff and the class members resulted in a violation of the FLSA tip credit provisions and a failure to pay Plaintiff and the class members the required minimum wages and overtime due under the FLSA.

36. These policies and practices were applicable to Plaintiff and the putative class members.

37. Application of this policy or practice does/did not depend on the personal circumstances of Plaintiff or those joining this lawsuit, as all servers and bartenders were subject to same.

38. Rather, the same policies and practices which resulted in the non-payment of minimum and overtime wages to Plaintiff applied to all class members.

39. Accordingly, the class members are properly defined as:

**All “servers and bartenders” who worked for Defendants within the three years preceding the filing of the Complaint in this matter, who were not compensated at the required minimum wage due under the FLSA, and/or who were not paid all owed overtime compensation under the FLSA, due to Defendants’ failure to give proper notice of its intent to claim the tip credit and/or Defendants’ systematic deletion of hours.**

40. Defendants knowingly, willfully, or with reckless disregard carried out its illegal pattern or practice of failing to pay minimum and full overtime wages with respect to Plaintiff and the class members.

**COUNT I**  
**RECOVERY OF MINIMUM WAGES**

41. Plaintiff reincorporates and readopts all allegations contained within Paragraphs 1-40 above.

42. Plaintiff, and those similarly situated, were/are entitled to be paid the applicable minimum wage for each hour worked during their employment with Defendants.

43. Defendants failed to pay Plaintiff, and those similarly situated, the applicable minimum wage for each hour worked for Defendants.

44. Defendants failed to provide proper notice of Defendants’ intent to claim the tip credit or regarding requirements related to tip pooling, as required by 29 U.S.C. §203(m).

45. Defendants also fail to pay Plaintiff proper minimum wage because Plaintiff was not paid for all hours worked.



46. Because of these policies, Defendants violated the FLSA's tip-credit provisions and the FLSA's provision on minimum wages (29 U.S.C. §206) in that Plaintiff, and those similarly situated, have not been paid the full minimum wage for each hour worked during their employment.

47. Defendants had specific knowledge that they were paying sub-minimum wages to Plaintiff, but still failed to pay Plaintiff at least minimum wages.

48. Defendants willfully failed to pay Plaintiff the applicable minimum wage for one or more weeks of work contrary to 29 U.S.C. § 206.

49. As a direct and proximate result of Defendants' deliberate underpayment of wages, Plaintiff, and those similarly situated, have been damaged in the loss of minimum wages, (for one or more weeks of work with Defendants.)

50. As a result of these common policies, Plaintiff, and those similarly situated, are entitled to receive the difference between the full statutory minimum wage and the hourly wage actually paid to them, in addition to tips paid into the unlawful tip pool.

51. Defendants knew its conduct violated the FLSA or acted in reckless disregard of the FLSA provisions.

52. Plaintiff, and those similarly situated, are entitled to an award of reasonable attorney's fees and costs pursuant to 29 U.S.C. §216(b).

WHEREFORE, Plaintiff requests a judgment entered in his favor and against Defendant for actual and liquidated damages, a declaration that Defendant's conduct violated the FLSA, an order certifying this action as a collective action, Notice to issue to those similarly situated, informing them of

their right to join this litigation, as well as costs, expenses and attorneys' fees and such other relief deemed proper by this Court.

**COUNT II**  
**RECOVERY OF OVERTIME COMPENSATION**

53. Plaintiff re-alleges paragraphs 1 through 40 of the Complaint, as if fully set forth herein.

54. From at least April 26, 2014, and continuing through May 17, 2017, Plaintiff worked hours in excess of forty (40) hours in one or more workweeks for which Plaintiff was not compensated at the statutory rate of one and one-half times Plaintiff's regular rate of pay.

55. Plaintiff was, and is, entitled to be paid at the statutory rate of one and one-half times Plaintiff's regular rate of pay for all hours worked in excess of forty (40) hours in a workweek.

56. At all times material hereto, Defendants failed, and continue to fail, to maintain proper time records as mandated by the FLSA.

57. Defendants' actions were willful and/or showed reckless disregard for the provisions of the FLSA, as evidenced by its failure to compensate Plaintiff at the statutory rate of one and one-half times Plaintiff's regular rate of pay for all hours worked in excess of forty (40) hours per workweek when they knew, or should have known, such was, and is, due. Specifically, Defendants paid Plaintiff correctly for some of his overtime hours, but purposefully did not pay him for all overtime hours he recorded.

58. Defendants failed to properly disclose or apprise Plaintiff of Plaintiff's rights under the FLSA.

59. Due to the intentional, willful, and unlawful acts of Defendants, Plaintiff

suffered and continues to suffer damages and lost compensation for time worked over forty (40) hours per week, plus liquidated damages.

60. Plaintiff is entitled to an award of reasonable attorneys' fees and costs pursuant to 29 U.S.C. §216(b).

WHEREFORE, Plaintiff requests a judgment entered in his favor and against Defendants for actual and liquidated damages; a declaration that Defendants' conduct violated the FLSA; an order certifying this action as a collective action; an Order requiring Notice to issue to the putative class, informing them of their right to join this litigation; as well as costs, expenses and attorneys' fees and such other relief deemed proper by this Court.

**JURY DEMAND**

Plaintiff demands trial by jury on all issues so triable as a matter of right by jury.

Dated this 31<sup>st</sup> day of July, 2017.

Respectfully submitted,



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Angel Murthy, Esquire  
FL Bar No.: 088758  
MORGAN & MORGAN, P.A.  
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Suite 400  
Plantation, FL 33324  
Tel: 954-318-0268  
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*Trial Counsel for Plaintiff*

JS 44 (Rev. 12/12)

### 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.)

|   |  |
|---|--|
| <p><b>I. (a) PLAINTIFFS</b><br/>                 EDUARDO LOPEZ, for himself<br/>                 and on behalf of those similarly situated,</p> <p>(b) County of Residence of First Listed Plaintiff <u>Lee</u><br/>                 (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number)<br/>                 Angeli Murthy, Esq., Morgan &amp; Morgan, P.A.<br/>                 600 N. Pine Island Rd, Suite 400, Plantation, FL 33324<br/>                 (954) 318-0268</p> | <p><b>DEFENDANTS</b><br/>                 REAL MONARCA INC, a Florida Profit Corporation, d/b/a<br/>                 MONARCA'S AUTHENTIC MEXICAN CUISINE BAR &amp; GRILL, and<br/>                 GUILLERMO CUEVAS, Individually</p> <p>County of Residence of First Listed Defendant _____<br/>                 (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF<br/>                 THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p> |
|---|--|

|  |   |                            |   |                            |                            |            |            |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |
|--|---|----------------------------|---|----------------------------|----------------------------|------------|------------|-----------------------|----------------------------|----------------------------|---|----------------------------|----------------------------|--------------------------|----------------------------|----------------------------|---|----------------------------|----------------------------|---|----------------------------|----------------------------|----------------|----------------------------|----------------------------|
| <p><b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p> | <p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;"><b>PTF</b></td> <td style="text-align: center;"><b>DEF</b></td> <td></td> <td style="text-align: center;"><b>PTF</b></td> <td style="text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table> |                            | <b>PTF</b>  | <b>DEF</b>                 |                            | <b>PTF</b> | <b>DEF</b> | Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
|  | <b>PTF</b>  | <b>DEF</b>                 |   | <b>PTF</b>                 | <b>DEF</b>                 |            |            |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |
| Citizen of This State  | <input type="checkbox"/> 1  | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |            |            |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |
| Citizen of Another State   | <input type="checkbox"/> 2  | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |            |            |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |
| Citizen or Subject of a Foreign Country  | <input type="checkbox"/> 3  | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |            |            |                       |                            |                            |   |                            |                            |                          |                            |                            |   |                            |                            |   |                            |                            |                |                            |                            |

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

|   |   |  |   |  |
|---|---|--|---|--|
| <p><b>CONTRACT</b></p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment &amp; Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p> | <p><b>TORTS</b></p> <p><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel &amp; Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</p> <p><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p><b>PERSONAL PROPERTY</b></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p> | <p><b>FORFEITURE/PENALTY</b></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><b>LABOR</b></p> <p><input checked="" type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Employee Retirement Income Security Act</p> <p><b>IMMIGRATION</b></p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p> | <p><b>BANKRUPTCY</b></p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><b>PROPERTY RIGHTS</b></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p><b>SOCIAL SECURITY</b></p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><b>FEDERAL TAX SUITS</b></p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p> | <p><b>OTHER STATUTES</b></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> |
|---|---|--|---|--|

**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

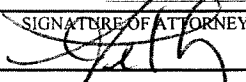
**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. §1331; 29 U.S.C. §§ 201, 203(m), 206, 207, 216(b) and 215(a)(3); §29 C.F.R. §778.5

Brief description of cause:  
Unpaid wages

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

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

DATE 7/31/17    SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY    RECEIPT # \_\_\_\_\_    AMOUNT \_\_\_\_\_    APPLYING IFF \_\_\_\_\_    JUDGE \_\_\_\_\_    MAG. JUDGE \_\_\_\_\_

**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.Cv.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; **NOTE: 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.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six 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.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 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.
- VI. 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
- VII. 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 actual dollar amount 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.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Monarca's Mexican Restaurant Faces Unpaid Wage Claims](#)

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