

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

CASE NO.

LAURA LOSACANO, on behalf of herself and
other employees similarly situated,

JURY TRIAL DEMANDED

Plaintiff,

ANTHONY 57, INC. d/b/a ANTHONYS AT
SABAL SPRINGS, a Florida corporation,
ANTHONY SERRAGO, an individual, and SABAL
SPRINGS HOMEOWNERS' ASSOCIATION, INC.,
a Florida corporation,

Defendants.

_____ /

COLLECTIVE ACTION COMPLAINT FOR DAMAGES

Plaintiff, LAURA LOSACANO, ("LOSACANO"), by and through her undersigned attorney, and on behalf of herself and other employees similarly situated, files this, her Collective Action Complaint for Damages against Defendants ANTHONY 57, INC. d/b/a ANTHONYS AT SABAL SPRINGS, a Florida corporation (hereinafter, "ANTHONY"), ANTHONY SERRAGO (hereinafter, "SERRAGO") and SABAL SPRINGS HOMEOWNERS' ASSOCIATION, INC. (hereinafter, "SABAL") and states as follows:

INTRODUCTION

This is an action to recover unpaid minimum wages under the Fair Labor Standards Act, as amended, 29 U.S.C. § 201 *et. seq.* (hereinafter "FLSA").

JURISDICTION

1. This Court has jurisdiction over this controversy pursuant to 29 U.S.C. §216(b) and 28 U.S.C. §1331. At all times pertinent to this Complaint, the corporate Defendant was an enterprise engaged in interstate commerce. At all times pertinent to this Complaint, Defendants

regularly owned and operated a business engaged in commerce or in the production of goods for commerce as defined in §3(r) and 3(s) of the FLSA, 29 U.S.C. §203(r) and 203(s).

2. The Defendants are subject to the jurisdiction of the United States District Court because they engage in substantial and not isolated activity within this judicial district.

3. The Defendants are also subject to the jurisdiction of the United States District Court because they operate, conduct, engage in, and/or carry on business in the Middle District of Florida.

VENUE

4. The venue of this Court over this controversy is based upon the following:

- a. The unlawful employment practices alleged below occurred and/or were committed in Lee County, Florida, in the Middle District of Florida;
- b. Defendants were and continue to be a Florida corporation and individuals doing business within this judicial district.

PARTIES

5. At all times material hereto, Plaintiff, LOSCANO, was and continues to be a resident of Lee County, Florida, and was an “employee” of the Defendants within the meaning of the FLSA.

6. At all times material hereto, the Defendants were the employers of Plaintiff, LOSCANO.

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

8. At all times material hereto, Defendants were and continue to be “employer[s]” within the meaning of the FLSA.

9. At all times material hereto, Defendants willfully and maliciously failed to pay LOSCANO and other employees similarly situated their lawfully earned wages in conformance with the FLSA.

10. At all times material hereto, Defendants, ANTHONY and SABAL SPRINGS were and continue to be “enterprise[s] engaged in commerce” within the meaning of the FLSA.

11. Plaintiff’s work, and the work of those employees similarly situated, involved handling on a regular and recurrent basis “goods” or “materials,” as defined by the FLSA, which were used commercially in Defendants’ business, and moved in interstate commerce. To be sure, as part of the Defendants’ restaurant business, the Plaintiff and other similarly situated restaurant food and drink servers handled food and drinks that were manufactured outside the State of Florida.

12. In addition, the Plaintiff and other restaurant food and drink servers were individually covered by the FLSA by virtue of processing the credit cards for Defendants’ restaurant customers, which involved electronic interstate transactions.

13. During the time period set forth herein, the Defendants had an annual gross volume of sales made or business done of not less than \$500,000.

14. At all times material hereto, Defendant, SERRAGO supervised the work performed by Plaintiff, LOSCANO and other similarly situated food and drink servers, and were involved in the day-to-day operations of SABAL and ANTHONY.

15. At all times material hereto, Defendant, SERRAGO was directly involved in decisions affecting employee compensation and/or hours worked by Plaintiff, LOSCANO and other similarly situated employees.

16. Plaintiff, LOSCANO, has fulfilled all conditions precedent to the institution of this action and/or such conditions have been waived.

STATEMENT OF FACTS

17. SABAL operates a homeowners' association in Fort Myers, Florida which consists of a gated residential community having numerous amenities. One such amenity is SABAL's own restaurant called "Anthony's on the Green." See **Exhibit A**, attached hereto. That restaurant serves the residents of SABAL's gated community along with their guests.

18. In order to insure the functioning of Anthony's on the Green, SABAL utilizes at least two methods to manage and operate the subject restaurant. First, SABAL uses the services of ANTHONY and SERRAGO to manage and operate Anthony's on the Green. Secondly, SABAL established a restaurant/entertainment committee, led by SABAL's agent, Linda Voto, to supervise the Plaintiff and other similarly situated food and drink servers.

19. The Defendants jointly employed the Plaintiff and other employees similarly situated. Moreover, SABAL and ANTHONY operated as a singled, unified business enterprise.

20. SABAL's agent, Linda Voto supervised the work of the Plaintiff and other employees similarly situated, and was regularly and customarily involved in the operations of Anthony's on the Green—on behalf of SABAL. In addition, she expedited food in the subject restaurant's kitchen, organized events for SABAL, see **Exhibit B**, made recommendations regarding which food and drink servers should be terminated, told Plaintiff and other

employees when to work and how to perform their tasks, and informed the Plaintiff and other similarly situated employees that she was their “boss.”

21. From about February 2, 2016 to about December 13, 2016, Plaintiff worked for SABAL, ANTHONY and SERRAGO as a food and drink server at Anthony’s on the Green.

22. In addition to employing the Plaintiff, the Defendants employed other food and drink servers who performed similar work.

23. LOSCANO and other employees similarly situated were paid \$2.00 per hour by the Defendants.

24. All the Defendants were aware that the Plaintiff and other similarly situated food and drink servers were being paid \$2.00 per hour—a rate below the applicable statutory minimum wage. Both Linda Voto as well as SABAL’s Board Member, Susan Kissel, were also aware.

25. Defendants knowingly and willfully and maliciously operated their business with a policy of not paying the statutory minimum wage to the Plaintiff and other similarly situated food and drink servers.

26. Plaintiff has retained Bober & Bober, P.A. to represent her in this litigation and has agreed to pay the firm a reasonable fee for its services.

STATEMENT OF CLAIM:

COUNT I

VIOLATION OF 29 U.S.C. § 206 (UNPAID MINIMUM WAGES)

27. Plaintiff realleges Paragraphs 1 through 26 of this Complaint as if fully set forth herein.

28. Plaintiff's employment with Defendants was to consist of a normal workweek for which she should have been compensated at or above the FLSA minimum wage.

29. 29 U.S.C. § 206 and requires that any employee covered by the FLSA be paid their minimum wages.

30. During the period of time that Plaintiff worked for the Defendants, she was paid below the statutory minimum wage.

31. The Defendants' failure to pay Plaintiffs the proper minimum wage was willful.

32. As a direct and proximate result of Defendants' violation of the FLSA, the Plaintiff is entitled to liquidated damages pursuant to the FLSA.

WHEREFORE, Plaintiffs respectfully request:

- a. judgment in her favor for all unpaid minimum wages due;
- b. liquidated damages;
- c. attorney's fees and costs pursuant to the FLSA;
- d. post-judgment interest; and
- e. all other and further relief this Court deems to be just and proper.

COUNT II

VIOLATION OF ARTICLE X, § 24, FLORIDA CONSTITUTION **(FLORIDA MINIMUM WAGE AMENDMENT)**

33. Plaintiffs reallege Paragraphs 1 through 26 of this Complaint as if fully stated herein.

34. Pursuant to Article X, Section 24 of the Florida Constitution, Defendants were required to pay Plaintiff at least the applicable Florida minimum wage.

35. During Plaintiff's employment, Defendants willfully paid her less than the statutory minimum wage for all her work hours.

36. WHEREFORE, Plaintiffs respectfully requests that judgment be entered in her favor against the Defendants:

- a. Declaring that Defendants violated Article X §24 of the Florida Constitution, insofar as failing to pay Plaintiff at or above the minimum wage;
- b. Awarding Plaintiff all minimum wages due and owed;
- c. Awarding Plaintiff liquidated damages in the amount equal to her back wages;
- d. Awarding Plaintiff reasonable attorney's fees and costs and expenses of this litigation pursuant to Article X, Sec. 24, Fla. Const.;
- e. Awarding Plaintiffs prejudgment and post-judgment interest;
- f. Finding that Defendants willfully violated Article X §24 Fla. Const.;
- g. declaratory relief pursuant to the Florida Constitution and Florida Statutes finding that the Plaintiff and other similarly situated employees who worked for the Defendants within the last five years were not paid minimum wage for all hours worked as required; and
- h. Ordering Defendants to pay the State of Florida \$1,000 per violation pursuant to Article X, Section 24(3) Fla. Const.
- i. Awarding such other and further relief this Court deems to be just and proper

COUNT III

COLLECTIVE ACTION FOR OTHER EMPLOYEES SIMILARLY SITUATED

37. Plaintiff realleges Paragraphs 1 through 26 as if fully stated herein.

38. Pursuant to 29 U.S.C. § 216, Plaintiff is provided a statutory right to bring this action on behalf of herself and other employees similarly situated.

39. It is the policy of the Defendants not to pay their food and drink servers in conformance with the FLSA. The Defendants paid Plaintiff and the other similarly situated food and drink servers only \$2.00 per hour.

40. Defendants' food and drink servers performed similar work insofar as serving food and drinks at Anthony's on the Green restaurant.

41. Defendants' food and drink servers did not receive the proper minimum wage compensation for all hours worked.

42. The Defendants acted willfully at all times.

WHEREFORE, Plaintiff respectfully requests on behalf of other employees similarly situated as aforesaid, that judgment be entered in their favor against the Defendants:

- a. Declaring that Defendants, jointly and severally, violated the provisions of 29 U.S.C. § 206;
- b. Awarding other employees similarly situated minimum wages and other benefits in the amount calculated;
- c. Awarding other employees similarly situated, liquidated damages in the amount calculated;
- d. Awarding said employees similarly situated attorney's fees and costs and expenses of this litigation pursuant to 29 U.S.C. § 216(b);
- e. Awarding said employees similarly situated post-judgment interest; and
- f. Awarding such other and further relief as this Court deems just and proper.

JURY DEMAND

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

DATED: February 6, 2017.

Respectfully submitted,

BOBER & BOBER, P.A.
Attorneys for Plaintiff
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Hollywood, FL 33020
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By: s/. Peter Bober 
PETER BOBER
FBN: 0122955
SAMARA ROBBINS BOBER
FBN: 0156248

EXHIBIT A

2/3/2017

Sabal Springs HOA - Home Page



Sabal Springs HOA

MAIN MENU

- Public Homepage >
- Resident Login >
- Request Login >
- Online Payments >
-
- Amenities >
-
- Classifieds >
- Homes for Lease >
- Homes for Sale >
-
- Anthony's on the Green >
-
- Contact Us >
- What's Nearby? >
- Map >

WELCOME HOME!

Welcome to our community web site. Feel free to explore the features available to the public on this site. If you are a resident of our community, [click here](#) to log into the private side of the web site. If you have not been notified of your login name and password, please complete the [Login Request Form](#).

OUR COMMUNITY



This active community stays busy inside and out of the neighborhood!

Check out our [Amenities](#) page to learn about everything we have to offer residents within the community! If you want to know more about the area surrounding our community, visit the [What's Nearby?](#) feature. What's Nearby? displays businesses and attractions convenient to our community on a helpful map! If you need more information or directions, visit the [Contact Us](#) tab!

FEEDBACK

Sabal Springs HOA is here to serve it's members and their families. Let us know how we can make our community even better! Please send us your » [feedback](#).

OUR GOLF COURSE



Sabal Springs Golf & Racquet Club offers a unique experience for the seasoned player, the beginner, and everyone in between.

Click [here](#) to learn more.

Our restaurant, bar and grille offer a everything from an after golf snack to a full dinner in a completely renovated setting.

Click [here](#) to learn more.

Sabal Springs Golf&Racquet Club is a beautiful gated community for those who love to work and play. Come on in and make yourself at home!

Resource Links

- [Amenities](#)
- [Homes for Lease](#)
- [Homes for Sale](#)
- [eForms](#)



View [Sabal Springs Blvd](#) larger

2/3/2017

Sabal Springs HOA - Home Page



This site is provided by [Alliant Property Management, LLC](#).

EXHIBIT B

2/3/2017

Sabal Springs HOA - Anthony's on the Green



MAIN MENU

- Public Homepage >
- Resident Login >
- Request Login >
- Online Payments >
-
- Amenities >
-
- Classifieds >
- Homes for Lease >
- Homes for Sale >
-
- Anthony's on the Green >
-
- Contact Us >
- What's Nearby? >
- Map >

Anthony's on the Green

Anthony's
on the Green

Sabal Springs Golf & Racquet Club

 The logo features a stylized palm tree on the left and a flag on a pole on the right. The text "Anthony's" is in a large, bold, sans-serif font, "on the Green" is in a smaller, italicized sans-serif font, and "Sabal Springs Golf & Racquet Club" is in a bold, sans-serif font below it.

3400 Clubview Drive
North Fort Myers, FL
33917

Open to the public
7 days a week
Tues-Sat: 10:30 to 8:00
Sun: 10:30-7:00
Mon: 10:30-5:00

Call 239-349-7305
for reservations

Click [here](#) to go to our full website!

2/3/2017

Sabal Springs HOA - Anthony's on the Green

Thanksgiving Day Menu

Thurs Nov 24th 12 p.m. to 5 p.m.

Recommended Appetizers

Shrimp Cocktail \$7 Stuffed Mushrooms \$7

Roasted Turkey

w/ Stuffing, Turkey Gravy, Cranberry Sauce

Mashed Potatoes, Vegetable du Jour

Baked Virginia Ham

w/ Pineapple Glaze, Scalloped Potatoes,

Vegetable du Jour

Baked Stuffed Shrimp

w/ Scalloped Potatoes and Vegetable du Jour

Roast Beef

Tender Sliced Beef w/ Beef Gravy, Mashed

Potatoes & Vegetable du Jour

All Entrees Are Served w/ House Salad, Rolls

Dessert & Non Alcoholic Beverage

\$20 p.p. plus tax & gratuity

RESERVATIONS STRONGLY RECOMMENDED



*Happy Thanksgiving!
To You And Your Family*

2/3/2017

Sabal Springs HOA - Anthony's on the Green

NEW YEAR'S EVE

*Bring in 2017 in style at
Anthony's On The Green*



Sat Dec 31, 2016 6:30 p.m.

Your Choice:

Twin Lobster Tails, Filet Mignon, Surf & Turf

Includes: Crackers, Cheese, Fruit & Crudite

Vegetable & Potato Dessert & Coffee

Champagne Toast at Midnight

Music by "Family Affair"

\$45 pp incl tax & gratuity Cash Bar

For Tickets Call Linda @543-9927 Prepay only

This site is provided by [Alliant Property Management, LLC](#).

JS 44 (Rev. 11/04)

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 THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
 LAURA LOSACANO, on behalf of herself and other employees similarly situated,
 (b) County of Residence of First Listed Plaintiff Lee
 (EXCEPT IN U.S. PLAINTIFF CASES)
 (c) Attorney's (Firm Name, Address, and Telephone Number)
 Bober & Bober, P.A., 1930 Tyler Street,
 Hollywood, Florida 33020 (954) 922-2298

DEFENDANTS Anthony 57, Inc. d/b/a Anthonys at Sabal Springs, a Florida corporation, Anthony Serrago, an individual, and Sabal Springs Homeowners' Association, Inc. a Florida corporation,
 County of Residence of First Listed Defendant Lee
 (IN U.S. PLAINTIFF CASES ONLY)
 NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE 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)
 (For Diversity Cases Only)
 Citizen of This State PTF 1 DEF 1 Incorporated or Principal Place of Business In This State PTF 4 DEF 4
 Citizen of Another State PTF 2 DEF 2 Incorporated and Principal Place of Business In Another State PTF 5 DEF 5
 Citizen or Subject of a Foreign Country PTF 3 DEF 3 Foreign Nation PTF 6 DEF 6

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State 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
 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
 Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 Fair Labor Standards Act, 29, U.S.C. 201 et seq, FMWA, Art. X, 24 of the Fla. Const, Fla Stat. 448.110
 Brief description of cause:

VII. REQUESTED IN COMPLAINT:
 CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMANDS
 CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

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

DATE 2/6/17 SIGNATURE OF ATTORNEY OF RECORD

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

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Anthony 57, Inc., Others Sued Over Unpaid Minimum Wages](#)
