

FILED

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

2018 MAY 11 PM 3:59

US DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO, FLORIDA

CARLOS JAVIER LUCIANO MARTINEZ,  
Individually and others, SIMILARLY  
SITUATED,

Plaintiffs,

vs.

Case No.:

6:18-cv-737-ORL-37-GJK

CLASS REPRESENTATION

AMBI PAVING LLC, A Florida Limited  
Liability company and SEROJINIE DEOCHAND,  
an individual,

Defendants.

\_\_\_\_\_ /

**FAIR LABOR STANDARDS ACT COMPLAINT**

Plaintiff, Carlos Javier Luciano Martinez individually and on behalf of others similarly situated, sues Defendants, Ambi Paving LLC and Serojinie Deochand (collectively, "Defendant" or "Employer") and alleges:

**JURISDICTIONAL ALLEGATIONS**

1. This is an action to recover money damages for unpaid overtime wages brought under the laws of the United States of America. This Court has jurisdiction pursuant to the Fair Labor Standards Act, 29 U.S.C., Sections 201-219, inclusive ("FLSA") and 28 U.S.C. §1337.

2. Plaintiff worked as paving truck driver and/or driver's helper for the named Defendants. Each reside in Orange County, Florida. The named Plaintiff is an "employee" within the meaning of 29 U.S.C. §203(e).

3. Defendant, Ambi Paving LLC is a Florida limited liability company which operates a closely held private paving business in Orange County, Florida.

4. Defendant Serojinie Deochand is, on information and belief, a resident of Orange County and at all times relevant to the claims made in this action made final decisions regarding the Plaintiff's hours, wages and terms and conditions of employment.

5. Defendants are an "employer" within the meaning of the FLSA 29 U.S.C. §203(a).

6. Plaintiff was at all relevant times a non-exempt employee.

7. At all relevant times, Defendant Ambi Paving was an "enterprise" and had employees, including the Plaintiff, engaged in commerce or in the production of goods for commerce, or had employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person and had at least \$500,000 of annual gross volume of sales made or business done. 29 U.S.C. § 203(s)(1)(A).

8. At all relevant times, Plaintiff as an employee of Employer performed services in the State of Florida using vehicles, fuel, spare parts, protective clothing, log books and equipment which were produced or moved in interstate commerce.

9. On information and belief, Employer utilized interstate or national payroll companies for processing and payment of employees' wages and interstate factoring or payable services for intra-state customers.

10. By reason of the foregoing, Employer is and was at all relevant times an "enterprise" and subject to the jurisdiction of the FLSA. 29 U.S.C. § 203(s)(1)(A).

#### **CLASS ALLEGATIONS**

11. The named Plaintiff is similarly situated to an unknown number of other employees, drivers or driver's helpers who have or are currently working for the Employer and have worked for the Employer during any part of the past three years.

12. The named Plaintiff and those similarly situated worked under a plan or scheme whereby they were paid a set amount each day or a set amount each week in purported “salary” but were non-exempt within the meaning of the FLSA.

13. On a weekly basis, the Employer would permit each employee to receive a lump sum in cash for a 40-hour work week based on either a daily or weekly rate.

14. This weekly pay period, which shall be referred to as the Pay Period, contemplated a 40-hour workweek, however, the Employer suffered the Plaintiff and those similarly situated to work in excess of 40 hours during some or all of the relevant Pay Periods.

15. During those weeks in which Plaintiff and those similarly situated worked in excess of 40 hours, Employer failed to pay overtime wages.

16. The named Plaintiff and those similarly situated were routinely scheduled to work, and actually did work, and regularly clocked well in excess of forty hours per work week. Accordingly, during each weekly Pay Period, the Employer failed to pay Plaintiff and those similarly situated overtime at the rate of one and one-half times their regular hourly wage.

#### **ATTORNEY'S FEES**

17. Plaintiff has engaged the services of the undersigned attorney and has agreed to pay a reasonable attorney's fees for his services.

#### **ENTITLEMENT TO ATTORNEY'S FEES**

18. Plaintiff and those similarly situated, are entitled to an award of prevailing party attorney's fees pursuant to the Fair Labor Standards Act, 29 U.S.C. § 216(b) and other related authority.

## **VIOLATION OF THE FAIR LABOR STANDARDS ACT**

### **(Failure to Pay Overtime)**

19. At all times during his employment, the Plaintiff and those similarly situated, were employees required to be paid overtime equal to one and one half times their hourly rate for every hour worked over 40 in the workweek for the Employer.

20. For the entire three-year period preceding the filing of this lawsuit, ("the applicable period covered by this Complaint"), the Employer violated the provisions of the FLSA, 29 U.S.C. §207(a) and §215(a)(2) by failing to pay the Plaintiffs and other similarly situated employees overtime during numerous applicable pay periods.

21. The Employer knew or showed a reckless disregard for the provisions of the FLSA concerning the payment of overtime and remains owing the named Plaintiff and other similarly situated employees overtime for every hour worked during the three-year period preceding this lawsuit for which they were not paid overtime wages. On information and belief, Defendant failed to post any Notice regarding Wages as required by the Fair Labor Standards Act and Federal Law to inform employees of their Federal rights to overtime and failed to maintain records of hours and wages as required by 29 CFR Part 516. Accordingly, Plaintiff and those similarly situated are entitled to recover double or liquidated damages.

22. At all relevant times, defendant Serojinie Deochand was and is the manager owner, President or Director of Ambi Paving. Deochand was an employer of Plaintiff and others similarly situated within the meaning of 29 U.S.C. §203(d) in that this individual defendant acted directly in the interests of Ambi Paving in relation to the employees of Ambi Paving, including Plaintiff and other similarly situated. Defendant. Deochand had at all relevant times operational

control of the business, provided Plaintiff with their job duties, schedules, routes and wage rates and is thus jointly liable for Plaintiff's damages.

**JURY DEMAND**

23. Plaintiff, and those similarly situated, demand trial by jury of all issues, claims and defenses in this action that are triable as of right by a jury.

WHEREFORE, Plaintiff, and others similarly situated demand the following: payment of the highest applicable overtime wage for every hour worked by them and those similarly situated, or as much as is allowed by the Fair Labor Standards Act, in an amount to be proven at the time of trial; an additional like amount as liquidated damages; an award of reasonable attorney's fees and costs, and any and all such other relief which this Court may deem reasonable under the circumstances. Additionally, in the event that Plaintiffs do not recover liquidated damages as allowed, then Plaintiffs and those similarly situated demand an award of prejudgment interest as a lesser alternative to liquidated damages.

May 9, 2018

**Law Office of Constantine W. Papas, P.A.**

/s/ Constantine W. Papas

Constantine W. Papas, Lead Counsel

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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**

Carlos Javier Luciano Martinez

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

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Law Office of Constantine W. Papas P.A.  
1277 N. Semoran Blvd, Ste. 106  
Orlando, FL 32807 (407) 347-6502

**DEFENDANTS**

Ambi Paving LLC and Serojinie Deochand

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

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)

	PTF	DEF		PTF	DEF
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)

Click here for: Nature of Suit Code Descriptions.

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 (Excludes 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	<b>PERSONAL INJURY</b> <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 <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <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	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <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)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <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"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <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 - 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., Sections 201-219.

Brief description of cause:  
Defendants filed to pay overtime

**VII. REQUESTED IN COMPLAINT:**

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

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

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE MAY 9, 2018 SIGNATURE OF ATTORNEY OF RECORD CW Papas

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IF 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: [Ambi Paving Hit with Class Action Over Alleged Refusal to Pay Overtime Wages](#)

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