

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

**HUMBERTO MACIAS, and other
similarly situated individuals,**

Plaintiffs,

vs.

CASE NO.

**WYNDHAM HOTELS AND RESORTS
LLC, a foreign limited liability
company,**

Defendant.

**DEFENDANT, WYNDHAM HOTELS AND RESORTS, LLC'S
NOTICE OF AND PETITION FOR REMOVAL**

Pursuant to 28 U.S.C. §§ 1441(a) and 28 U.S.C. § 1446, Defendant, WYNDHAM HOTEL MANAGEMENT, INC. incorrectly named as WYNDHAM HOTELS AND RESORTS, LLC in the Complaint ("Defendant"), through its undersigned counsel, hereby petitions this Court for removal of this action from the Circuit Court of the Eleventh Judicial Circuit in and for Miami County, Florida, to the United States District Court for the Southern District of Florida. The removal of this action is based upon the following:

1. On or about November 29, 2017, a civil action was filed in the Circuit Court of the Eleventh Judicial Circuit in and for Miami County, Florida, which was captioned "*Humberto Macias v. Wyndham Hotels and Resorts, LLC*" ("Circuit Court Case"). The Circuit Court case was assigned Case No. 2017-027386-CA-01. Attached as **Exhibit A** is a true and correct copy of the Complaint served upon WHR. The Complaint seeks relief for violations of the Florida Civil Rights Act ("FCRA") and the Fair Labor Standards Act ("FLSA"). See Ex. A.

2. Defendant was served with the Original Complaint and summons on or about December 8, 2017. Copies of all process, pleadings and other papers on file with the Circuit Court of the Eleventh Judicial Circuit in and for Miami County, Florida are attached hereto as Exhibit A, including the Summons and Complaint incorporated herein by reference, as required by 28 U.S.C. § 1446(a).

3. This action is within the original federal question jurisdiction of the United States District Court, pursuant to 28 U.S.C. § 1331, as Plaintiff's action seeks damages pursuant to the FLSA.

4. Additionally, Plaintiff's FCRA causes of action for sex and disability discrimination arise from the same set of facts and circumstances as Plaintiff's FLSA. Accordingly, the Court should exercise supplemental jurisdiction over Plaintiff's FCRA causes of action.

5. Alternatively, this matter meets the requirements of diversity jurisdiction because, as established herein: (1) Plaintiff resides in Florida; (2) Defendant is incorporated in Delaware and has its principal place of business in New Jersey; and (3) the amount in controversy exceeds \$75,000.

6. This Notice of and Petition for Removal has been filed within 30 days of receipt by WHR on December 8, 2017, of a copy of the Complaint in the Circuit Court Case. Thus, this Notice of and Petition for Removal is timely filed pursuant to 28 U.S.C. § 1446(b).

7. The United States District Court for the Southern District of Florida, Miami Division, encompasses the judicial district in which Plaintiff filed his Complaint. Therefore, removal is proper to this Court pursuant to 28 U.S.C. § 1446(a).

8. Pursuant to 28 U.S.C. §1446(d), Defendant has provided written Notice of the Removal to all parties in this action, and has filed a copy of this Notice of and Petition for Removal in the Circuit Court of the Eleventh Judicial Circuit in and for Miami County, Florida.

I. Removal is Proper Based on Federal Question and Diversity of Jurisdiction.

“If a state-court complaint states a case that satisfies federal jurisdictional requirements, a defendant may remove the action to federal court pursuant to 28 U.S.C. § 1446(b).” *Roe v. Michelin N. Am., Inc.*, 613 F.3d 1058, 1060 (11th Cir. 2010). An action filed in state court may be removed to federal court based on diversity of citizenship, 28 U.S.C. § 1332, or federal question jurisdiction, 28 U.S.C. § 1331. 28 U.S.C. § 1441(a). Both avenues provide this Court with original jurisdiction over Plaintiff’s claims, as he seeks relief under a federal law, the matter in controversy exceeds the sum or value of \$75,000.00 exclusive of interests and costs, and is between citizens of different states.

A. Federal Question Jurisdiction

In Paragraph 1 of the Complaint, Plaintiff explicitly acknowledges that he brings this case and seeks relief under the federal FLSA. Specifically, Plaintiff alleges:

this is an action by the Plaintiff and similarly-situated individuals for damages pursuant to the Fair Labor Standards Act, as amended (29 U.S.C. §201, et seq., hereinafter called the “FLSA”) to recover unpaid overtime compensation, and an additional equal amount as liquidated damages. . .

See Ex. A.¹ Therefore, this case involves a federal question within the jurisdiction of this Court and should in and of itself suffice to satisfy the jurisdictional requirements.

In the event the Court exercises jurisdiction under Section 1331, this Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over Plaintiff’s remaining causes of action under the FCRA. Plaintiff alleges two counts brought under the FCRA for sex and

¹ While Defendant does not believe that Plaintiff has adequately stated a cause of action under the FLSA or to bring this case as a collective action, the sufficiency of Plaintiff’s allegations is not currently before the Court.

disability discrimination. These causes of action arise from the same set of facts and circumstances as Plaintiff's FLSA claim, i.e. his employment with Wyndham Hotel Management, Inc. Therefore, Plaintiff's FCRA claims form part of the same case or controversy raised by Plaintiff's FLSA claim.

B. Diversity Jurisdiction

Defendant submits that removal is also proper based on diversity jurisdiction. Pursuant to 28 U.S.C. § 1332(a), "[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between 'citizens of different states.'"

1. Complete Diversity of Citizenship Exists.

Wyndham Hotel Management, Inc. is the correct defendant entity, because it employed Plaintiff. See attached Affidavit of Toby Johnson, ¶4, attached hereto as **Exhibit B**. Wyndham Hotel Management, Inc. is a foreign corporation that is incorporated in Delaware and has its principal place of business in New Jersey. Aff. of Johnson, ¶5. Pursuant to 28 U.S.C. §1332(c)(1), "[a] corporation shall be deemed to be a citizen of every State where it has its principal place of business. . ." There is complete diversity of citizenship between Plaintiff and Wyndham Hotel Management, Inc. in this action because: Plaintiff is a citizen of the State of Florida (Ex. A, Complaint ¶3) and Wyndham Hotel Management, Inc. is incorporated in Delaware with its principal place of business in New Jersey.

Even if Plaintiff had any evidence indicating that Wyndham Hotels and Resorts, LLC is the proper defendant (which he does not), there is still complete diversity of citizenship. Wyndham Hotels and Resorts, LLC is a foreign limited liability company that is incorporated in the State of Delaware. Aff. of Johnson, ¶7. For purposes of establishing diversity jurisdiction,

“a limited liability company is a citizen of any state of which a member of the company is a citizen.” *Rolling Greens MHP, L.P. v. Comcast SCH Holdings L.L.C.*, 374 F.3d 1020, 1022 (11th Cir. 2004). There is complete diversity of citizenship between Plaintiff and Wyndham Hotels and Resorts, LLC in this action because: Plaintiff is a citizen of the State of Florida (Ex. A, Complaint ¶3) and Wyndham Hotels and Resorts, LLC is 100% owned by Wyndham Hotel Group, LLC, which has its principal place of business is New Jersey. Aff. of Johnson, ¶8.

C. The Amount in Controversy Exceeds \$75,000.

Plaintiff alleges in his Complaint that he is seeking unpaid overtime compensation; an additional equal amount as liquidated damages; back pay and front pay; lost wages; interest; lost benefits; compensatory damages, including for mental anguish, personal suffering, and loss of enjoyment of life; and attorney’s fees and costs. *See* Complaint ¶1 and WHEREFORE clauses following ¶¶25 and 36. Plaintiff does not identify the amount of his alleged damages in the Complaint. Plaintiff merely asserts that his damages are in excess of \$15,000.00, exclusive of costs and interest. *See* Complaint ¶1.

“Where the plaintiff has not [pled] a specific amount of damages . . . the defendant is required to show that by a preponderance of the evidence that the amount in controversy can more likely than not be satisfied.” *Kirkland v. Midland Mtg. Co.*, 243 F.3d 1277, 1281 n.5 (11th Cir. 2001). “In some cases, this burden requires the removing defendant to provide additional evidence demonstrating that removal is proper.” *Roe v. Michelin N. Am., Inc.*, 613 F.3d 1058, 1061 (11th Cir. 2010). While courts may not speculate or guess as to the amount in controversy, “Eleventh Circuit precedent permits district courts to make ‘reasonable deductions, reasonable inferences, or other reasonable extrapolations’ from the pleadings to determine whether it is facially apparent that a case is removable.” *Cowan v. Genesco, Inc.*,

Case No. 3:14-cv-261-J-34JRK, 2014 U.S. Dist. LEXIS 95412, *6 (M.D. Fla. Jul. 14, 2014) (quoting *Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744, 752 (11th Cir. 2010)). A court “need not suspend reality or shelve common sense in determining whether the face of a complaint, or other document, establishes the jurisdictional amount.” *Pretka*, 608 F.3d at 770 (internal quotations and citations omitted). “[I]f a removing defendant makes specific factual allegations establishing jurisdiction and can support them ... with evidence combined with reasonable deductions, reasonable inferences, or other reasonable extrapolations[,] that kind of reasoning is not akin to conjecture, speculation, or star gazing.” *Id.* at 754. “When it is clear that the jurisdictional minimum is likely met, a district court should acknowledge the value of the claim, even if it is unspecified by the plaintiff. To do otherwise would abdicate the court’s statutory right to hear the case, and reward a plaintiff for ‘employing the kinds of manipulative devices against which the Supreme Court has admonished [courts] to be vigilant.’” *Cowan*, Case No. 3:14-cv-261-J-34JRK, *7-8 (citing *Roe*, 613 F.3d at 1064).

As Judge Howard pointed out in *Cowan*, “recent Eleventh Circuit opinions promote a greater reliance on a court’s judicial experience and common sense based on the evidence presented and the nature of the claims alleged in determining whether the jurisdictional threshold is reached.” *Id.* at *13. However, it is improper for the court to inquire into the amount of damages a plaintiff is likely to receive on the merits. *McDaniel v. Fifth Third Bank*, 568 Fed. App’x 729, 731 (11th Cir. Jun. 5, 2014). Rather, “[w]hen determining whether the amount in controversy requirement has been met, district courts should only consider the amount the plaintiff has placed in controversy, not the amount the plaintiff is likely to recover.” *Id.* at 730. The defendant “need only prove the jurisdictional facts necessary to establish that . . .

damages in an amount necessary to reach the jurisdictional minimum are at issue – that is, that such damages *could be* awarded.” *Id.* at 731 (emphasis added).

i. Back and Front Pay²

Plaintiff seeks damages including back pay and front pay against Defendant. Pursuant to Fla. Stat. § 760.11(5), successful plaintiffs in FCRA actions are entitled to back pay, front pay, and lost benefits. *Armstrong v. Charlotte County Bd. of Cnty. Comm’rs*, 273 F. Supp. 2d 1312 (M.D. Fla. 2003). In a back pay case in which a continuing right to employment is claimed, the amount in controversy is “the total amount of back pay the plaintiff stands ultimately to recover in the suit.” *Id.*

Plaintiff was employed by Wyndham Hotel Management, Inc. for a very short time period from approximately October 1, 2015 through October 16, 2015. Aff. of Johnson, ¶4. Plaintiff was a Food and Beverage Manager for the Morimoto restaurant at the Shelborne Hotel. On or about October 1, 2015, Wyndham Hotel Management, Inc. assumed management of the Morimoto restaurant at the Shelborne Hotel in Miami, Florida. Aff. of Johnson, ¶3. All the Morimoto associates were given an opportunity to apply for a position with Wyndham Hotel Management, Inc. Plaintiff was offered a position of Banquets Manager, earning a bi-weekly salary of \$2,500, which equates to an annualized salary of \$65,000. Aff. of Johnson, ¶9. On or about October 20, 2015, Plaintiff was terminated due to his failure to return to work following inquiry into his background check. Aff. of Johnson, ¶10. If this case proceeds to trial two years from the date the Complaint was filed, which would be November of 2019, Plaintiff’s back pay based on his bi-weekly salary from October 20, 2015, which would be approximately 211 weeks would total \$263,750, without pre- and post-judgment interest. Plus, 12 months of front pay

² The following analysis is made to demonstrate that the amount in controversy in this action is more likely than not in excess of the jurisdictional limit at issue. By making this analysis, Defendant makes no admission that Plaintiff is entitled to any damages or to any form of relief whatsoever.

totals at least \$65,000. *See Messina v. Chanel, Inc.*, No. 10-24518-CIV-LENARD, 2011 U.S. Dist. LEXIS 71138, at **5-6 (S.D. Fla. July 1, 2011) (calculating plaintiff's back pay damages through date of trial); *Cunningham Lindsey*, 2005 U.S. Dist. LEXIS 38862 at *11-12 (for the purpose of estimating the amount in controversy, potential back pay award may be computed from the date of the adverse action until the proposed trial date, noting that a trial date of approximately twelve to eighteen months from the date of removal is customary); *Deel v. Metromedia Rest. Servs., Inc.*, No. 3:05cv120/MCR, 2006 U.S. Dist. LEXIS 10174, at *15 n.8 (N.D. Fla. Feb. 27, 2006) (noting that a date of approximately twelve months from the date of removal is customarily used when estimating back pay damages to determine the amount in controversy). Therefore, the amount in controversy is easily satisfied.

ii. Compensatory Damages³

Plaintiff also seeks compensatory damages for emotional pain and suffering, which are provided for, without a cap, by the FCRA. Fla. Stat. § 760.11(5). *See* Complaint, WHEREFORE clauses following ¶¶25 and 36.

Evidence of compensatory damages can be considered in ascertaining if the amount in controversy exceeds \$75,000. *See Pease v. Medtronic, Inc.*, 6 F. Supp. 2d 1354, 1357 (S.D. Fla. 1998). Courts in the Southern District of Florida have observed that in determining the propriety of removal, an award of compensatory damages “could easily match the amount of economic damages.” *Barnes v. Jetblue Airways Corp.*, No. 07-60441-CIV-COHN, 2007 U.S. Dist. LEXIS 33276, at *5 (S.D. Fla. May 7, 2007) (finding that the \$75,000 jurisdictional amount was satisfied for diversity purposes based, in part, on plaintiff's claim for compensatory damages which the court determined could easily match the amount of economic damages).

³ The following analysis is made to demonstrate that the amount in controversy in this action is more likely than not in excess of the jurisdictional limit at issue. By making this analysis, Defendant makes no admission that Plaintiff is entitled to any damages or to any form of relief whatsoever.

Consequently, because Plaintiff could receive approximately \$328,750 in back and front pay, by awarding an equal amount in compensatory damages, the amount in controversy would equal approximately \$657,500.

Based on the fact that Plaintiff is seeking compensatory damages, the amount in controversy is easily satisfied, without even considering the remaining amount of damages, explained *infra*. *Roe v. Michelin N. Am., Inc.*, 613 F.3d 1058,1061-62 (11th Cir. 2010) (stating that “Eleventh Circuit precedent permits district courts to make reasonable deductions, reasonable inferences, or other reasonable extrapolations from the pleadings to determine whether it is facially apparent that a case is removable.”) (citations omitted).

iii. Attorneys’ Fees⁴

Additionally, Plaintiff seeks recovery for reasonable attorney’s fees, which are expressly provided for by the FCRA and FLSA. Fla. Stat. § 760.11(5); 29 U.S.C. §201, et seq. See Complaint, ¶1 and WHEREFORE clauses following ¶¶25 and 36.

“When a statute authorizes the recovery of attorney’s fees, a reasonable amount of those fees is included in the amount in controversy.” *Cunningham Lindsey U.S.*, 2005 U.S. Dist. LEXIS 38862 at *13 (citing *Morrison v. Allstate Indem. Co.*, 228 F.3d 1255, 1265 (11th Cir. 2000)). Here, Defendant estimates that Plaintiff’s counsel may spend 500 or more hours litigating this case through trial. Such an estimate is consistent with how courts within Florida have defined “reasonableness” with regard to the amount of hours spent litigating a case. See e.g., *St. Fleur v. City of Fort Lauderdale*, 149 Fed. App’x 849, 854 (11th Cir. 2005) (affirming a reduction of an attorneys’ fee award by merely thirty percent in a Title VII employment discrimination case where the plaintiff’s attorneys claimed approximately 1500 hours litigating

⁴ The following analysis is made to demonstrate that the amount in controversy in this action is more likely than not in excess of the jurisdictional limit at issue. By making this analysis, Defendant makes no admission that Plaintiff is entitled to any damages or to any form of relief whatsoever.

the case through trial); *Holland v. Gee*, No. 08-cv-2458, 2012 U.S. Dist. LEXIS 164956, at *16 (M.D. Fla. Oct. 23, 2012) (affirming estimate of 260.8 billed hours by lead attorney and 190.8 hours billed by associate attorney as reasonable in a Title VII and FCRA case that proceeded through trial); *Joseph v. Publix Super Markets, Inc.*, 00-cv-7327-CIV-MIDDLEBROOKS/JOHNSON, 2004 U.S. Dist. LEXIS 30889, at *15-16 (S.D. Fla. Mar. 29, 2004) (awarding plaintiff \$187,874.50 in attorneys' fees in a Title VII case based upon 1,023 hours of attorneys' billable time).

Further, courts have also found that \$250-300 per hour is a reasonable hourly rate for plaintiffs' attorneys in discrimination cases. *See e.g., St. Fleur*, 149 Fed. App'x at 852-53 (affirming \$250 as a reasonable hourly rate for lead trial attorneys litigating Title VII claim in the Middle District of Florida); *Brown v. Sch. Bd. of Broward County*, No. 08-cv-61592-CIV-DIMITROULEAS, 2010 U.S. Dist. LEXIS 85084, at *8 (S.D. Fla. June 29, 2010) (\$250 was a reasonable rate for a plaintiff's attorney with six years of experience litigating a Title VII claim in the Southern District of Florida). Counsel for Plaintiff has been admitted to practice law in the State of Florida for over sixteen years, so \$250 is a reasonable rate.

Following these precedents, Plaintiff's claims for attorneys' fees could easily exceed \$125,000.00 (\$250 hourly rate x 500 billable hours), which, when combined with Plaintiff's claims for back pay, front pay, compensatory, liquidated, and punitive damages, easily surpasses the amount in controversy requirement.

Based on Plaintiff's claims for back pay, front pay, compensatory damages, punitive damages, and attorney's fees, Defendant has established by a preponderance of the evidence that the amount in controversy in this matter is in excess of \$75,000. *See e.g., Schmidt v. Pantry, Inc.*, No. 1:11-cv-228-SPM-GRJ, 2012 U.S. Dist. LEXIS 53530, at *16 (N.D. Fla.

Mar. 6, 2012) (denying plaintiff's motion to remand an FCRA action where the back wages were \$14,082.00, because "even a minimal award for compensatory damages, plus a reasonable attorney's fee places the amount in controversy in this case well above the sum of \$75,000.00.").

II. Venue.

The United States District Court for the Southern District of Florida, Miami Division, includes the judicial circuit in which Plaintiff filed his Complaint. Thus, removal is proper to this Court pursuant to 28 U.S.C. § 1446(a).

III. Compliance with Procedural Requirements.


This Notice of Removal has been filed within 30 days of the receipt by Defendant on December 8, 2017, of a copy of the Complaint in the Circuit Court Case. Thus, this Notice of and Petition for Removal is timely filed pursuant to 28 U.S.C. § 1446(b). "[A] copy of all process, pleadings, and orders served upon . . . defendant" are attached to this Notice of Removal as Exhibit A as required by 28 U.S.C. § 1446(a). Pursuant to 28 U.S.C. § 1446(d), Defendant has provided written Notice of the Removal to all parties in this action, and has filed a copy of this Notice of Removal in the Circuit Court of the Eleventh Judicial Circuit in and for Miami County, Florida.

WHEREFORE, Defendant, WYNDHAM HOTEL MANAGEMENT, INC. incorrectly named as WYNDHAM HOTELS AND RESORTS, LLC, respectfully removes this action from the Circuit Court of the Eleventh Judicial Circuit in and for Miami County, Florida to the United States District Court for the Southern District of Florida.

DATED this 8th day of January, 2018.

Respectfully submitted,

JACKSON LEWIS P.C.
390 North Orange Avenue, Suite 1285
Orlando, Florida 32801
Telephone: (407) 246-8440
Facsimile: (407) 246-8441

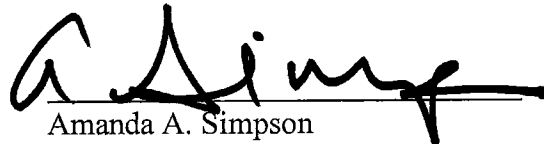
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Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was electronically filed with the Clerk of the Court by using the CM/ECF system and a copy was furnished via U.S. Mail on all counsel or parties of record on the Service List below this 8th day of January, 2018.


Amanda A. Simpson

SERVICE LIST

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JS 44 (Rev. 06/17) FLSD Revised 06/01/2017

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.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS Humberto Macias, and other similarly situated individuals

DEFENDANTS Wyndham Hotels and Resorts LLC, a foreign limited liability company

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

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

Anthony M. Georges-Pierre, Remer & Georges-Pierre, PLLC, 44 W. Flagler St., Suite 2200, Miami, FL 33130 (305) 416-5000

Attorneys (If Known)

Stephanie Adler-Paindiris & Amanda Simpson, Jackson Lewis P.C., 390 N. Orange Ave., #1285, Orlando, FL 32801 (407) 246-8440

(d) Check County Where Action Arose: ☒ MIAMI-DADE ☐ MONROE ☐ BROWARD ☐ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE ☐ HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 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 |
|---|----------------------------|---|---------------------------------------|
| <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of This State | | Incorporated or Principal Place of Business in This State | |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen of Another State | | Incorporated and Principal Place of Business in Another State | |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
| Citizen or Subject of a Foreign Country | | Foreign Nation | |

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	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 <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <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 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	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <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"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave 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"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <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)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<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	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input checked="" type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence Other: <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"/> 560 Civil Detainee - Conditions of Confinement	<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 Re-filed (See VI below) ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation Transfer ☐ 7 Appeal to District Judge from Magistrate Judgment ☐ 8 Multidistrict Litigation - Direct File ☐ 9 Remanded from Appellate Court

VI. RELATED/RE-FILED CASE(S)

(See instructions): a) Re-filed Case ☐ YES ☒ NO
JUDGE:

b) Related Cases ☐ YES ☒ NO
DOCKET NUMBER:

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):
Fair Labor Standards Act and Americans with Disabilities Act

LENGTH OF TRIAL via 3 days estimated (for both sides to try entire case)

VIII. REQUESTED-IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ In excess of \$15,000 CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE
DATE

SIGNATURE OF ATTORNEY OF RECORD

January 8, 2018

FOR OFFICE USE ONLY
RECEIPT #

AMOUNT

IFP

JUDGE

MAG JUDGE

EXHIBIT “A”

Filing # 64706684 E-Filed 11/29/2017 10:17:19 AM

FORM 1.997. CIVIL COVER SHEET

The civil cover sheet and the information contained in it neither replace nor supplement the filing and service of pleadings or other documents as required by law. This form must be filed by the plaintiff or petitioner for the use of the Clerk of Court for the purpose of reporting judicial workload data pursuant to section 25.075, Florida Statutes. (See instructions for completion.)

I. CASE STYLE

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT,
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

Case No.: _____
Judge: _____

HUMBERTO MACIAS

Plaintiff

vs.

WYNDHAM HOTELS AND RESORTS, LLC

Defendant

II. TYPE OF CASE

- ☐ Condominium
- ☐ Contracts and indebtedness
- ☐ Eminent domain
- ☐ Auto negligence
- ☐ Negligence – other
 - ☐ Business governance
 - ☐ Business torts
 - ☐ Environmental/Toxic tort
 - ☐ Third party indemnification
 - ☐ Construction defect
 - ☐ Mass tort
 - ☐ Negligent security
 - ☐ Nursing home negligence
 - ☐ Premises liability – commercial
 - ☐ Premises liability – residential
- ☐ Products liability
- ☐ Real Property/Mortgage foreclosure
 - ☐ Commercial foreclosure \$0 - \$50,000
 - ☐ Commercial foreclosure \$50,001 - \$249,999
 - ☐ Commercial foreclosure \$250,000 or more
 - ☐ Homestead residential foreclosure \$0 – 50,000
 - ☐ Homestead residential foreclosure \$50,001 - \$249,999
 - ☐ Homestead residential foreclosure \$250,000 or more
 - ☐ Non-homestead residential foreclosure \$0 - \$50,000
 - ☐ Non-homestead residential foreclosure \$50,001 - \$249,999

- ☐ Non-homestead residential foreclosure \$250,00 or more
- ☐ Other real property actions \$0 - \$50,000
- ☐ Other real property actions \$50,001 - \$249,999
- ☐ Other real property actions \$250,000 or more
- ☐ Professional malpractice
 - ☐ Malpractice – business
 - ☐ Malpractice – medical
 - ☐ Malpractice – other professional
- ☒ Other
 - ☐ Antitrust/Trade Regulation
 - ☐ Business Transaction
 - ☐ Circuit Civil - Not Applicable
 - ☐ Constitutional challenge-statute or ordinance
 - ☐ Constitutional challenge-proposed amendment
 - ☐ Corporate Trusts
 - ☒ Discrimination-employment or other
 - ☐ Insurance claims
 - ☐ Intellectual property
 - ☐ Libel/Slander
 - ☐ Shareholder derivative action
 - ☐ Securities litigation
 - ☐ Trade secrets
 - ☐ Trust litigation

COMPLEX BUSINESS COURT

This action is appropriate for assignment to Complex Business Court as delineated and mandated by the Administrative Order. Yes ☐ No ☒

III. REMEDIES SOUGHT (check all that apply):

- ☒ Monetary;
☐ Non-monetary declaratory or injunctive relief;
☐ Punitive

IV. NUMBER OF CAUSES OF ACTION: ()
(Specify)

2

V. IS THIS CASE A CLASS ACTION LAWSUIT?

- ☐ Yes
☒ No

VI. HAS NOTICE OF ANY KNOWN RELATED CASE BEEN FILED?

- ☒ No
☐ Yes – If "yes" list all related cases by name, case number and court:

VII. IS JURY TRIAL DEMANDED IN COMPLAINT?

- ☒ Yes
☐ No

I CERTIFY that the information I have provided in this cover sheet is accurate to the best of my knowledge and belief, and that I have read and will comply with the requirements of Florida Rule of Judicial Administration 2.425.

Signature s/ Anthony M Georges-Pierre FL Bar No.: 533637
Attorney or party

(Bar number, if attorney)

Anthony M Georges-Pierre 11/29/2017
(Type or print name)

Date

Filing # 64706684 E-Filed 11/29/2017 10:17:19 AM

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI COUNTY, FLORIDA

HUMBERTO MACIAS,
and other similarly situated individuals,

CASE NO. _____

Plaintiff(s),

v.

WYNDHAM HOTELS AND RESORTS, LLC
a Foreign Limited Liability Company;

Defendant.

COMPLAINT

Plaintiff, HUMBERTO MACIAS, ("Plaintiff"), and other similarly situated individuals,
by and through the undersigned counsel, hereby sue Defendants, WYNDHAM HOTELS AND
RESORTS, LLC a Foreign Limited Liability Company ("Defendant") and states as follows:

JURISDICTION AND VENUE

1. This action seeks damages in excess of \$15,000.00, independent of attorney's fees, costs, and interest, as a result of Defendant's sexual origin and disability discrimination against Plaintiff in violation of the Florida Civil Rights Act, §760.01, et seq., Florida Statutes ("FCRA"). Additionally, this is an action by the Plaintiff and other similarly-situated individuals for damages pursuant to the Fair Labor Standards Act, as amended (29 U.S.C. §201, et seq., hereinafter called the "FLSA") to recover unpaid overtime compensation, and an additional equal amount as liquidated damages, obtain declaratory relief, and reasonable attorneys' fees and costs.
2. The jurisdiction of the Court over this controversy is based upon 29 U.S.C. §216(b).

3. Plaintiff was at all times relevant to this action, and continues to be, a resident Miami Dade County Florida, within the jurisdiction of this Honorable Court.
4. Plaintiff was at all relevant times an employee of Defendant.
5. Defendant, WYNDHAM HOTELS AND RESORTS, LLC having his main place of business in Miami Dade County, Florida, where Plaintiff worked for Defendant and at all times material hereto was and is engaged in interstate commerce.
6. Defendant is accordingly an "employer" as defined by the FCRA.
7. Plaintiff alleges causes of action for sexual origin and disability discrimination under the FCRA.
8. Venue is proper in Miami Dade because all of the actions that form the basis of this Complaint occurred within Miami Dade County, payment was due in Miami Dade County and discrimination took place in Miami Dade County.
9. As more fully set forth below, Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC") on November 10, 2015 claiming discrimination based on sex, national origin and retaliation (Attached herein as Exhibit
10. Plaintiff has accordingly exhausted his administrative remedies prior to initiating the instant suit.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

11. Plaintiff performed work for Defendants as a non-exempt employee from on or about January of 2013 through on or about October 16, 2015 as an Assistant General Manager.
12. Since Plaintiff started working on or about January, 2013, it was agreed that he would do a background check and also a drug test.

13. H.R (Vanessa) Stated no drug testing will be done because everybody does drugs. Even though the policy states a drug test is mandatory.
14. Plaintiff did a background check on or about the year of 2014.
15. Plaintiff was discriminated against due to his sexual orientation, throughout Plaintiff's employment with Defendants, owner would treat Plaintiff differently from the female employees; she would talk down to him; she would always talk about men in a derogatory way saying that men were good for nothing and that she did not have children because that would mean that she would have to share the children with their father, and she did not want that.
16. On October 1, 2015 Plaintiff's position was changed to Banquet Manager and on October 16, 2015 Plaintiff was brought into the General Managers office and was terminated due to his background, and also for his medical condition (HIV).
17. Immediately after his termination Plaintiff requested that his confidential medical records and background would not be released to anyone, however all of Plaintiff's confidential information was released to employees at the hotel.

COUNT I

***Sex Discrimination Under The FCRA
WYNDHAM HOTELS AND RESORTS, LLC***

18. Plaintiff reasserts her allegations in paragraph 1 through 17 as if fully set forth herein.
19. Section 760.10 of the FCRA states in relevant part:
 - "(1) It is an unlawful employment practice for an employer:
 - (a) To discharge or to fail or refuse to hire any individual, or otherwise to discriminate against any individual with respect to compensation, terms,

conditions, or privileges of employment, because of such individual's race, color, religion, sex, national origin, age, handicap, or marital status."

20. The FCRA accordingly prohibits discrimination based on sex.

21. The treatment to which Plaintiff was subjected by Defendant as set forth above and incorporated herein, was the result of Plaintiff's sex, which male individuals were not and would not have been subjected, in violation of the FCRA.

22. Defendant's alleged bases for its adverse conduct against Plaintiff and Plaintiff's termination are pretextual and asserted only to cover up the discriminatory nature of its conduct.

23. Even if Defendant could assert legitimate reasons for its adverse actions against Plaintiff and Plaintiff's termination, which reasons it does not have, Plaintiff's sex was also a motivating factor for Defendant's adverse conduct toward Plaintiff and Plaintiff's termination.

24. As a result of Defendant's willful and malicious discriminatory actions as a result of his sex, Plaintiff has experienced and will continue to experience significant financial and economic loss in the form of lost wages and lost benefits. Plaintiff has also experienced and will continue to experience emotional anguish, pain and suffering and loss of dignity damages. Plaintiff accordingly demands lost economic damages in the form of back pay and front pay, interest, lost benefits, and compensatory damages.

25. Plaintiff further seeks her attorney's fees and costs as permitted by law.

WHEREFORE, Plaintiff prays for the entry of a judgment against Defendant and an award of economic damages in the form of back pay and front pay, lost wages, interest, lost

benefits, as well as compensatory damages, and attorney's fees and costs as a result of Defendant's discriminatory conduct in violation of the FCRA.

COUNT II

Disability Discrimination in Violation of the FCRA

26. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1-25 above as if set out in full herein.
27. Plaintiff is a member of a protected class under the FCRA.
28. By the conduct describe above, Defendant has engaged in discrimination against Plaintiff because of Plaintiff's disability and subjected the Plaintiff to disability-based animosity.
29. Such discrimination was based upon the Plaintiff's disability in that Plaintiff would not have been the object of discrimination but for the fact that Plaintiff is disabled.
30. Defendant's conduct complained of herein was willful and in disregard of Plaintiff's protected rights. Defendant and its supervisory personnel were aware that discrimination on the basis of Plaintiff's disability was unlawful but acted in reckless disregard of the law.
31. At all times material hereto, the employees exhibiting discriminatory conduct towards Plaintiff possessed the authority to affect the terms, conditions, and privileges of Plaintiff's employment with the Defendant.
32. Defendant retained all employees who exhibited discriminatory conduct toward the Plaintiff and did so despite the knowledge of said employees engaging in discriminatory actions.

33. As a result of Defendant's actions, as alleged herein, Plaintiff has been deprived of rights, has been exposed to ridicule and embarrassment, and has suffered emotional distress and damage.
34. The conduct of Defendant, by and through the conduct of its agents, employees, and/or representatives, and the Defendant's failure to make prompt remedial action to prevent continued discrimination against the Plaintiff, deprived the Plaintiff of statutory rights under state and/or federal law.
35. The actions of the Defendant and/or its agents were willful, wanton, and intentional, and with malice or reckless indifference to the Plaintiff's statutorily protected rights, thus entitling Plaintiff to damages in the form of compensatory and punitive damages pursuant to state and/or federal law, to punish the Defendant for its actions and to deter it, and others, from such action in the future.
36. Plaintiff has suffered and will continue to suffer both irreparable injury and compensable damages as a result of Defendant's discriminatory practices unless and until this Honorable Court grants relief.

WHEREFORE, Plaintiff respectfully prays for the following relief against Defendant:

- A. Adjudge and decree that Defendant has violated the FCRA, and has done so willfully, intentionally, and with reckless disregard for Plaintiff's rights;
- B. Enter a judgment requiring that Defendant pay Plaintiff appropriate back pay, benefits' adjustment, and prejudgment interest at amounts to be proved at trial for the unlawful employment practices described herein;

- C. Enter an award against Defendant and award Plaintiff compensatory damages for mental anguish, personal suffering, and loss of enjoyment of life;
- D. Require Defendant to reinstate Plaintiff to the position at the rate of pay and with the full benefits Plaintiff would have had Plaintiff not been discriminated against by Defendant, or in lieu of reinstatement, award front pay;
- E. Award Plaintiff the costs of this action, together with a reasonable attorneys' fees; and
- F. Grant Plaintiff such additional relief as the Court deems just and proper under the circumstances.

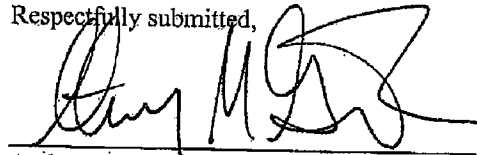
JURY DEMAND

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

Dated

11/28/17

Respectfully submitted,



Anthony M. Georges-Pierre, Esq.
Florida Bar No. 533637
REMER & GEORGES-PIERRE, PLLC
44 West Flagler St., Suite 2200
Miami, FL 33130
Telephone: 305-416-5000
Facsimile: 305-416-5005
agp@rgpattoorneys.com
apetisco@rgpattoorneys.com
rregueiro@rgpattoorneys.com
pn@rgpattoorneys.com

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI COUNTY, FLORIDA

HUMBERTO MACIAS,
and other similarly situated individuals,

CASE NO. _____

Plaintiff(s),

vs.

WYNDHAM HOTELS AND RESORTS, LLC
a Foreign Limited Liability Company;

Defendant.

SUMMONS IN A CIVIL CASE

Registered Agent:

TO: CORPORATION CREATIONS NETWORK INC.
11380 Prosperity Farm Road #221E
Palm Beach Garden, FL 33410

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY

ANTHONY GEORGES-PIERRE, ESQ.
REMER & GEORGES-PIERRE, PLLC.
44 WEST FLAGLER STREET, SUITE 2200
MIAMI, FL 33130

an answer to the complaint which is herewith served upon you, within **20 days** after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

CLERK _____

DATE _____

(BY) DEPUTY CLERK _____

Filing # 64777098 E-Filed 11/30/2017 11:21:45 AM

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI COUNTY, FLORIDA

HUMBERTO MACIAS,
and other similarly situated individuals,

CASE NO. 2017-027386-17-01

Plaintiff(s),

vs.

WYNDHAM HOTELS AND RESORTS, LLC
a Foreign Limited Liability Company;

Defendant.

SUMMONS IN A CIVIL CASE

Registered Agent:

TO: CORPORATION CREATIONS NETWORK INC.
11380 Prosperity Farm Road #221E
Palm Beach Garden, FL 33410

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY

ANTHONY GEORGES-PIERRE, ESQ.
REMER & GEORGES-PIERRE, PLLC.
44 WEST FLAGLER STREET, SUITE 2200
MIAMI, FL 33130

an answer to the complaint which is herewith served upon you, within **20 days** after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

CLERK

DATE

(BY) DEPUTY CLERK

Filing # 64777098 E-Filed 11/30/2017 11:21:45 AM

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI COUNTY, FLORIDA

HUMBERTO MACIAS,
and other similarly situated individuals,

CASE NO. 2017-027386-17-01

Plaintiff(s),

vs.

WYNDHAM HOTELS AND RESORTS, LLC
a Foreign Limited Liability Company;

Defendant.

SUMMONS IN A CIVIL CASE

Registered Agent:

TO: CORPORATION CREATIONS NETWORK INC.
11380 Prosperity Farm Road #221E
Palm Beach Garden, FL 33410

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY

ANTHONY GEORGES-PIERRE, ESQ.
REMER & GEORGES-PIERRE, PLLC.
44 WEST FLAGLER STREET, SUITE 2200
MIAMI, FL 33130

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

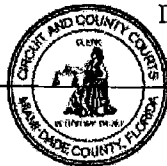
Harvey Ruvin,
Clerk of Courts

12/6/2017

CLERK

Gonelle Brown 164659

(BY) DEPUTY CLERK



DATE

Filing # 65409692 E-Filed 12/14/2017 02:38:04 PM

RETURN OF SERVICE

State of Florida

County of Miami-Dade

Circuit Court

Case Number: 2017-27386-CA-01

Plaintiff:

HUMBERTO MACIAS

vs.

Defendant:

WYNDHAM HOTELS AND RESORT

For:

Anthony M. Georges-Pierre

REMER & GEORGES-PIERRE, PLLC

44 W. Flagler Street

Ste 2200

Miami, FL 33130

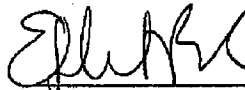
Received by Elizabeth Bockmeyer on the 8th day of December, 2017 at 1:55 pm to be served on WYNDHAM HOTELS AND RESORTS, LLC C/O CORPORATION CREATIONS NETWORK, INC., 11380 PROSPERITY FARM RD, #221E, PALM BEACH GARDENS, FL 33410.

I, Elizabeth Bockmeyer, do hereby affirm that on the 8th day of December, 2017 at 4:16 pm, I:

LLC REGISTERED AGENT EMPLOYEE: served by delivering a true copy of the **SUMMONS AND COMPLAINT** with the date and hour of service endorsed thereon by me, to: **VERONICA VALEGA** who is an employee for the Registered Agent for **WYNDHAM HOTELS AND RESORTS, LLC** at the address of **11380 Prosperity Farms Road, #221E, Palm Beach Gardens, FL 33410**, and informed said person of the contents therein, in compliance with Federal Rules of Civil Procedure, Florida Statute 48.062(1) or other state statute as applicable.

Description of Person Served: Age: 30+, Sex: F, Race/Skin Color: Hispanic, Height: 5'5, Weight: 150, Hair: Dark Brown, Glasses: N

Under penalties of perjury, I declare that I have read the foregoing and that the facts stated in it are true. I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the county in which service was effected in accordance with State Statutes.



Elizabeth Bockmeyer
Process Server-1156

OJF Services, Inc.
13727 S.W. 152nd Street
Suite 354
Miami, FL 33177
(954) 929-4215

Our Job Serial Number: OJF-2017015850
Ref: OJF#2017015850

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RETURN OF SERVICE

State of Florida

County of Miami-Dade

Circuit Court

Case Number: 2017-27386-CA-01

Plaintiff:

HUMBERTO MACIAS

vs.

Defendant:

WYNDHAM HOTELS AND RESORT

For:

Anthony M. Georges-Pierre

REMER & GEORGES-PIERRE, PLLC

44 W. Flagler Street

Ste 2200

Miami, FL 33130

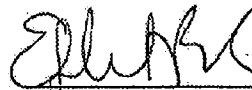
Received by Elizabeth Bockmeyer on the 8th day of December, 2017 at 1:55 pm to be served on WYNDHAM HOTELS AND RESORTS, LLC C/O CORPORATION CREATIONS NETWORK, INC., 11380 PROSPERITY FARM RD, #221E, PALM BEACH GARDENS, FL 33410.

I, Elizabeth Bockmeyer, do hereby affirm that on the 8th day of December, 2017 at 4:16 pm, I:

LLC REGISTERED AGENT EMPLOYEE: served by delivering a true copy of the **SUMMONS AND COMPLAINT** with the date and hour of service endorsed thereon by me, to: **VERONICA VALEGA** who is an employee for the Registered Agent for **WYNDHAM HOTELS AND RESORTS, LLC** at the address of **11380 Prosperity Farms Road, #221E, Palm Beach Gardens, FL 33410**, and informed said person of the contents therein, in compliance with Federal Rules of Civil Procedure, Florida Statute 48.082(1) or other state statute as applicable.

Description of Person Served: Age: 30+, Sex: F, Race/Skin Color: Hispanic, Height: 5'5, Weight: 150, Hair: Dark Brown, Glasses: N

Under penalties of perjury, I declare that I have read the foregoing and that the facts stated in it are true. I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the county in which service was effected in accordance with State Statutes.



Elizabeth Bockmeyer
Process Server-1156

OJF Services, Inc.
13727 S.W. 152nd Street
Suite 354
Miami, FL 33177
(954) 929-4215

Our Job Serial Number: OJF-2017015850
Ref: OJF#2017015850

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IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI COUNTY, FLORIDA

HUMBERTO MACIAS,
and other similarly situated individuals,

CASE NO. 2017-037386-CA-01

Plaintiff(s),

vs.

DATE 12/8/17

TIME 4:16 pm

INITIALS EB

ID # 1184

WYNDHAM HOTELS AND RESORTS, LLC
a Foreign Limited Liability Company;

Defendant.

Veronica Valera
Employee

SUMMONS IN A CIVIL CASE

Registered Agent:

TO: CORPORATION CREATIONS NETWORK INC.
11380 Prosperity Farm Road #221E
Palm Beach Garden, FL 33410

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY

ANTHONY GEORGES-PIERRE, ESQ.
REMER & GEORGES-PIERRE, PLLC.
44 WEST FLAGLER STREET, SUITE 2200
MIAMI, FL 33130

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

Harvey Ruvín,
Clerk of Courts

12/6/2017

CLERK

Gonelle Brown 164659

DATE

(BY) DEPUTY CLERK



15850.

EXHIBIT “B”

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

**HUMBERTO MACIAS, and other
similarly situated individuals,**

Plaintiffs,

vs.

CASE NO.

**WYNDHAM HOTELS AND RESORTS
LLC, a foreign limited liability
company,**

Defendant.

AFFIDAVIT OF TOBY JOHNSON

STATE OF FLORIDA)

COUNTY OF ORANGE)

BEFORE ME, the undersigned authority, personally appeared Toby Johnson who, after first being duly sworn, deposes and states as follows:

1. My name is Toby Johnson. I am over eighteen years of age and am competent to testify as to the matters set forth in this Affidavit, which are true and accurate based upon my own personal knowledge or information obtained from the corporate records.

2. I am employed by Wyndham Hotel Management, Inc. as the Area Director of Human Resources. I also held this position in October 2015 and the Human Resources Director at the Shelborne reported to me.

3. On or about October 1, 2015, Wyndham Hotel Management, Inc. assumed management of the Morimoto restaurant at the Shelborne Hotel in Miami, Florida.

4. Wyndham Hotel Management, Inc. employed Plaintiff, Humberto Macias, from approximately October 1, 2015 through October 16, 2015.

5. Wyndham Hotel Management, Inc. is a foreign corporation that is incorporated in Delaware and has its principal place of business in New Jersey.

6. Wyndham Hotels and Resorts, LLC did not employ Plaintiff, Humberto Macias.

7. Wyndham Hotels and Resorts, LLC is a foreign limited liability company that is incorporated in the State of Delaware.


8. Wyndham Hotels and Resorts, LLC is 100% owned by Wyndham Hotel Group, LLC, which has its principal place of business in New Jersey.

9. I have reviewed the offer letter for Plaintiff, Humberto Macias. A copy of the offer letter is attached as Exhibit 1. The offer letter indicates that Mr. was offered a position of Banquets Manager, earning a bi-weekly salary of \$2,500, which equates to an annualized salary of \$65,000.

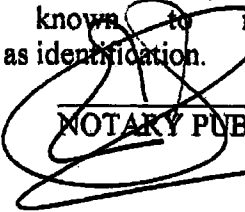
10. On or about October 20, 2015, Mr. Macias' employment terminated after he failed to return to work following inquiry into his background check.

FURTHER AFFIANT SAYETH NAUGHT.

DATED this 2nd day of January, 2018.


Toby Johnson
Area Director of Human Resources
Wyndham Hotel Management, Inc.

SWORN TO AND SUBSCRIBED before me this ^{5th} ~~2nd~~ day of ^{January} ~~December~~ 2018, by
Toby Johnson, who is personally known to me or has produced
FDL as identification.


NOTARY PUBLIC

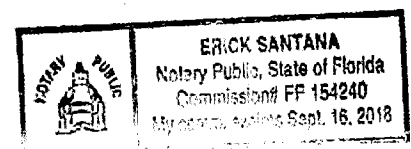


EXHIBIT 1



October 1, 2015

Humberto Macias

Miami, FL 33126

Dear Humberto,

On behalf of Wyndham Hotel Group, I am pleased to offer you a position as Banquets Manager at the Shelborne Wyndham Grand South Beach reporting to Peter Berntsen, Banquets Manager. In alignment with our "Count On Me!" service philosophy, we recognize that our associates are our greatest resource and are excited that you will be joining the Wyndham Worldwide family of companies. We are confident you will become a valuable part of the team.

Terms of Offer

Pre-Employment

This offer is contingent upon satisfactory background check, including employment and education verification, as well as compliance with federal and state employment eligibility requirements.

In addition, within the first three days of employment with Wyndham, you will need to establish your U.S. employment eligibility as well as your identity. Examples of proper identification include a passport, or a valid driver's license and social security card; alternate acceptable documents are stated on the enclosed list. You will need to bring this identification with you on your first day of employment.

Pay Period and Pay Days

Your start date is scheduled on or about October 1, 2015. Your bi-weekly salary will be \$2500.00 which equates to an annualized salary of \$65,000. Wyndham utilizes a Bi-weekly pay period and pay for your work is delivered on Fridays. Your pay is one week in arrears. Therefore, your first paycheck will be delivered on October 9, 2015

Benefits of Employment

Health and welfare benefits will become effective immediately. We have several core and voluntary benefit options including, but not limited to Medical, Dental, Vision, Flexible Spending Accounts, Basic Life Insurance, Short Term and Long Term Disability. Details of these benefits can be found in the enclosed Benefits Planner brochure.

You will be eligible to participate in the 401(k) plan after one year of service, provided you work at least 1,000 hours per year. Details about plan participation will be provided to you at that time.

You will be eligible for Paid Time Off (PTO) in accordance with the company PTO policy. An associate begins accruing vacation pay on the first day of the fourth month of service (e.g. an associate who starts on January 15 will begin to accrue vacation on May 1).

Offer Acceptance

Please indicate your acceptance of this offer by signing it in the space provided below and keep a copy for your personal files. By accepting this offer and signing below, you certify that you are not subject to any restrictive covenants with your prior employer that would interfere with or restrict your ability to work for Wyndham.

Per Wyndham's standard policy, this letter is not intended nor should it be considered as an employment contract for a definite or indefinite period of time. Employment with Wyndham is at will, and either you or the Company may terminate employment at any time, with or without cause and with or without notice. In addition, by signing this letter, you acknowledge that this letter, along with any pre-hire documentation you executed, sets forth the entire agreement regarding your employment between you and the Company, and fully supersedes any prior agreements or understandings, whether written or oral.

WHG 12/2013

Wyndham / Macias 020016


We are excited that you are joining our organization and look forward to having you as part of the Wyndham team. If there is anything further I can do to assist you, please do not hesitate to contact me directly at 305-341-1335.

Best regards,



Vanessa Pacheco
Director of Human Resources


Humberto Macias


Date

cc: Human Resources
Staffing
Associate File
Hiring Manager

WHG 12/2013

Wyndham / Macias 020017

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Former Employee Sues Wyndham Hotels and Resorts Over Discrimination Claims](#)
