

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

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

HANS MOISE, and other similarly situated	)
individuals,	)
	)
Plaintiff,	)
	)
v.	)
	)
BOARD OF COUNTY COMMISSIONERS,	)
MIAMI-DADE COUNTY, FLORIDA,	)
	)
Defendant.	)
	)
_____	)

**COMPLAINT**

The Plaintiff, HANS MOISE, sues the Defendant, BOARD OF COUNTY COMMISSIONERS, MIAMI-DADE COUNTY, FLORIDA, and alleges:

1. This is an action to recover money damages for unpaid overtime and minimum wages. This Court has jurisdiction pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201-219 (Section 216 for jurisdictional placement) (“the Act”)<sup>1</sup>.

2. Plaintiff, HANS MOISE (“MOISE” or “Plaintiff”), is a resident of Miami-Dade County, Florida, within the jurisdiction of this Honorable Court. MOISE is a covered employee for purposes of the Act.

3. Defendant, BOARD OF COUNTY COMMISSIONERS, MIAMI-DADE COUNTY, FLORIDA (the “Board”) is a Florida municipality doing business in Miami-Dade County, Florida, and at all times material hereto was and is engaged in interstate commerce.

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<sup>1</sup> The Plaintiff is in the process of filing a charge of discrimination with the EEOC. As soon as the EEOC issues its Right to Sue Letter, the Plaintiff will move to amend this complaint to include causes of action for age discrimination under the FCRA and the ADEA.

**COUNT I: WAGE AND HOUR FEDERAL (FLSA)  
STATUTORY VIOLATION BY MOISE AGAINST BOARD**

4. MOISE re-adopts each and every factual allegation as stated in paragraphs 1 through 3 above as if set out in full herein.

5. This action is brought by MOISE to recover from Board unpaid minimum wages and overtime compensation, as well as an additional amount as liquidated damages, costs, and reasonable attorney's fees under the provisions of 29 U.S.C. § 201 et seq., and also under the provisions of 29 U.S.C. § 207. Section 207(a)(1) of the Act states: "No employer shall employ any of his employees ... for a work week longer than 40 hours unless such employee receives compensation for his employment in excess of the hours above-specified at a rate not less than one and a half times the regular rate at which he is employed."

6. Section 206(a)(1) of the Act states: "... an employer must pay a minimum wage of \$5.15/hr to an employee who is engaged in commerce...." On July 24, 2007, Federal minimum wage was raised to \$5.85/hr. On July 24, 2008, Federal minimum wage was raised to \$6.55/hr. On July 24, 2009, Federal minimum wage was raised to \$7.25/hr.

7. The Act provides minimum standards that may be exceeded, but cannot be waived or reduced. Employers must comply, for example, with any Federal, State or municipal laws, regulations or ordinances establishing a higher minimum wage or lower maximum workweek than those established under the Act. 29 C.F.R. § 541.4.

8. In Florida, the minimum wage from January 1, 2016, through December 31, 2016, was \$8.05 per hour. For 2017, the minimum wage in Florida is \$8.10 per hour.

9. The Act covers all public agency employees of a State, a political subdivision of a State, or an interstate government agency, including the county of Miami-Dade and its subdivisions.

10. Jurisdiction is conferred on this Court by Title 28 U.S.C. § 1337 and by Title 29 U.S.C. § 216(b). Board is and, at all times pertinent to this complaint, was engaged in interstate commerce. At all times pertinent to this complaint, Board operated as an organization which sells and/or markets its services and/or goods to customers from throughout the United States and from outside of the United States, and also provides its services for goods sold and transported from across state lines of other states, and Board obtains and solicits funds from non-Florida sources, accepts funds from non-Florida sources, uses telephonic transmissions going over state lines to do their business, transmit funds outside the State of Florida, and otherwise regularly engages in interstate commerce, particularly with respect to its employees and customers. Upon information and belief, the annual gross revenue of Board was at all times material hereto in excess of \$500,000.00 per annum, and/or MOISE, and those similarly situated, by virtue of working in interstate commerce, otherwise satisfy the Act's requirements.

11. By reason of the foregoing, Board is and was, during all times hereafter mentioned, an enterprise engaged in commerce or in the production of goods for commerce as defined in §§ 3(r) and 3(s) of the Act, 29 U.S.C. § 203(r) and 203(s) and/or MOISE, and those similarly situated, were engaged in interstate commerce for Board. Board's business activities involve those to which the Act applies. Board is a municipality covered by the Act and, through its business activity, affects interstate commerce. MOISE's work for Board likewise affects interstate commerce. MOISE was employed by Board as a supervisor of paid trainees at the Greater Miami Service Corps.

12. While employed by Board, MOISE routinely worked in excess of 40 hours per week without being compensated at a rate of not less than one and one half times the regular rate at which he was employed. MOISE was employed as a supervisor of paid trainees at the Greater

Miami Service Corps, performing the same or similar duties as that of those other similarly situated supervisors whom MOISE observed working in excess of 40 hours per week without overtime compensation.

13. MOISE's salary, at all times relevant, was and is \$6.5 per hour.

14. In other words, the Board never properly compensated MOISE at the minimum wage rate as well as overtime wages for the hours that he worked in excess of 40 hours per week. MOISE has been employed by Board between March of 2016 and the present. MOISE seeks to recover unpaid minimum and overtime wages accumulated from the date of hire and/or from 3 (three) years back from the date of the filing of this complaint.

15. Prior to the completion of discovery and to the best of MOISE's knowledge, at the time of the filing of this complaint, MOISE's good faith estimate of his unpaid wages is as follows:

**a. Minimum Wages**

i. From January 2016 through December 2016

$\$8.05 - \$6.5 = \$1.55 \times 45 \text{ hours} \times 52 \text{ compensable weeks} = \mathbf{\$3,627}$

ii. From January 1, 2017 through March 7, 2017 (9 weeks)

$\$8.10 - \$6.5 = \$1.6 \times 45 \text{ hours} \times 9 \text{ compensable weeks} = \mathbf{\$648}$

**b. Overtime Wages**

i. From January 2016 through December 2016 (52 weeks)

$\$8.05 \times .5 \text{ (overtime rate)} \times 5 \text{ overtime hours} \times 52 \text{ weeks} = \mathbf{\$1,046.50}$

ii. From January 1, 2017 through March 7, 2017 (9 weeks)

$\$7.79 \times .5 \text{ (overtime rate)} \times 5 \text{ overtime hours} \times 9 \text{ weeks} = \mathbf{\$182.25}$

**c. Total Unpaid Wages: \$5,503.75**

**d. Liquidated Damages: \$5,503.75**

**e. Grand Total: \$11,007.50**

16. At all times material hereto, Board failed to comply with Title 29 U.S.C. §§ 201-219 and 29 C.F.R. § 516.2 and § 516.4 et seq. in that MOISE, performed services and worked in excess of the maximum hours provided by the Act but no provision was made by Board to properly pay them at the rate of time and one half for all hours worked in excess of 40 hours per workweek as provided in said Act. Furthermore, Board did not abide by the Federal law requiring that employees be paid at least a minimum wage.

17. Board knew and/or showed reckless disregard of the provisions of the Act concerning the payment of minimum and overtime wages as required by the Act and remains owing MOISE, and those similarly situated, these minimum and overtime wages since the commencement of MOISE's, and those similarly situated employees' employment with Board as set forth above, and MOISE is entitled to recover double damages. Board never posted any notice, as required by Federal Law, to inform employees of their federal rights to overtime and minimum wage payments.

18. Board willfully and intentionally refused to pay MOISE minimum and overtime wages as required by the laws of the United States as set forth above and remains owing MOISE these minimum and overtime wages since the commencement of MOISE's employment with Board as set forth above.

19. MOISE has retained the law offices of the undersigned attorney to represent him in this action and is obligated to pay a reasonable attorneys' fee.

**PRAYER FOR RELIEF**

**WHEREFORE**, MOISE and those similarly situated request that this Honorable Court:

A. Enter judgment for MOISE, and others similarly situated, and against Board on the basis of Board's willful violations of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. and other Federal Regulations; and

B. Award MOISE actual damages in the amount shown to be due for unpaid minimum wages and overtime compensation for hours worked in excess of forty per week, with interest; and

C. Award MOISE an equal amount in double damages/liquidated damages; and

D. Award MOISE reasonable attorneys' fees and costs of suit; and

E. Grant such other and further relief, as this Court deems equitable and just.

**JURY DEMAND**

MOISE, and those similarly situated, demand trial by jury of all issues triable as of right by jury.

Dated: March 16, 2017.

By:       /s/ R. Martin Saenz  
R. Martin Saenz, Esquire  
Fla. Bar No.: 0640166  
Email: msaenz@saenzanderson.com  
SAENZ & ANDERSON, PLLC  
20900 N.E. 30<sup>th</sup> Avenue, Ste. 800  
Aventura, Florida 33180  
Telephone: (305) 503.5131  
Facsimile: (888) 270.5549

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.)

I. (a) PLAINTIFFS

HANS MOISE, and other similarly situated individuals,

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

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

R. Martin Saenz, Esq.; Saenz & Anderson, PLLC, 20900 NE 30th Ave., Ste. 800, Aventura, FL 33180; (305) 503-5131

DEFENDANTS

BOARD OF COUNTY COMMISSIONERS, MIAMI-DADE COUNTY, FLORIDA,

County of Residence of First Listed Defendant (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)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Labor Standards, etc.

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, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Fair Labor Standards Act, 29 U.S.C. § 201-219. Brief description of cause: Unpaid wages

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: X Yes O No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE: March 16, 2017 SIGNATURE OF ATTORNEY OF RECORD: s/ R. Martin Saenz, Esq.

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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



AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

HANS MOISE, and other similarly situated individuals,

Plaintiff(s)

v.

BOARD OF COUNTY COMMISSIONERS, MIAMI-DADE COUNTY, FLORIDA,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) BOARD OF COUNTY COMMISSIONERS, MIAMI-DADE COUNTY, FLORIDA
c/o County Attorney's Office
111 NW 1st Street, Suite 2810
Miami, Florida 33128

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: R. Martin Saenz, Esq. Saenz & Anderson, PLLC 20900 NE 30th Ave., Ste. 800 Aventura, FL 33180

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**Print**

**Save As...**

**Reset**

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Miami-Dade County Bd. of Commissioners Hit with FLSA Lawsuit](#)

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