

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-CV-62631

KEILEEN PRADA and YOLIED GALLARDO
on behalf of themselves and others similarly situated
under 29 U.S.C. 216(b)

Plaintiff,

vs.

ALDO U.S., INC.

Defendant.
_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs, KEILEEN PRADA (“PRADA”) and YOLIED GALLARDO (“GALLARDO”) (collectively referred to as “Plaintiffs”), bring this action on behalf of themselves and other current and former similarly situated employees against Defendant, ALDO U.S. INC., (“ALDO” or “Defendant”) to recover overtime compensation, liquidated damages, and costs and reasonable attorneys’ fees under the provisions of the Fair Labor Standards Act, 29 U.S.C. § 216(b) (“FLSA”). In support thereof, Plaintiffs state as follows:

PARTIES

1. PRADA worked for ALDO from approximately February 2015 until April 2016. PRADA originally worked as a store manager at ALDO’s Dolphin Mall location in Dade County, Florida, and later was transferred to ALDO’s Coral Square Mall location in Broward County, Florida. PRADA was paid a salary of \$770.00 per week.

2. GALLARDO worked for ALDO as a store manager from approximately December 2014 at its Dolphin Mall location in Dade County, Florida, and later transferred to the

International Mall located in Dade County, Florida where she worked until approximately April 2016. GALLARDO was paid a salary of approximately \$770.00 per week during her employment with ALDO.

3. ALDO is a Foreign Corporation that conducts business in Broward County, Florida, which is within the jurisdiction of this Court.

4. ALDO, directly or indirectly acted in the interest of an employer toward Plaintiffs and other similarly situated employees at all material times, including without limitation, directly or indirectly controlling the terms of employment and compensation of Plaintiffs and other similarly situated employees.

5. At all times pertinent to this Complaint, ALDO regularly owned and operated a business engaged in commerce or in the production of goods for commerce as defined in §§ 3(r) and 3(s) of the Act, 29 U.S.C. §§ 203(r) and 203(s).

6. At all times pertinent to this Complaint, ALDO regularly owned and operated a business engaged in commerce or in the production of goods and/or materials that has been moved in or produced for commerce.

7. Based upon information and belief, the annual gross sales volume of ALDO was in excess of \$500,000.00 per annum at all time material hereto.

8. At all times pertinent to this Complaint, ALDO was an enterprise in commerce or in the production of goods for commerce as defined in §§ 3(r) and 3(s) of the Act.

9. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331, 1337, and by 29 U.S.C. § 216(b).

10. Venue is proper pursuant to 28 U.S.C. § 1391. The Court has jurisdiction over ALDO, and in regard to Plaintiffs and any other plaintiffs joining this lawsuit in that the acts from which this lawsuit arise occurred in the Southern District of Florida.

11. Plaintiffs and other similarly situated non-exempt, salaried employees regularly worked overtime hours. ALDO, however, failed to compensate Plaintiffs and other similarly situated employees at time and one half their regular rates of pay for the overtime hours they worked.

12. Instead, ALDO only paid Plaintiffs and other similarly situated employees a set salary no matter how many hours they worked.

13. At all times pertinent to this Complaint, Plaintiffs and similarly situated employees performed duties such that they did not satisfy the requirements for any exemptions set forth in the FLSA.

14. Moreover, Plaintiffs and similarly situated employees did not satisfy the salary basis test necessary for the managerial or administrative exemptions of the FLSA that apply to their position.

15. At all times pertinent to this Complaint, ALDO failed to comply with 29 U.S.C. § 201-209 by not compensating Plaintiffs and other similarly situated employees for all of the hours they worked in excess of forty (40) in one or more workweeks.

16. The records, if any, concerning the number of hours actually worked and the compensation actually paid to the Plaintiffs and similarly situated employees are in the possession and custody of ALDO. Plaintiff intends to obtain these records by appropriate discovery proceedings to be taken promptly in this case and, if necessary, they will then seek

leave of the Court to amend the Complaint for damages to set forth the precise amount due to them.

17. ALDO knew and/or showed a willful disregard for the provisions of the FLSA as evidenced by its failure to compensate Plaintiffs and similarly situated employees the statutory rate of time and one-half for all the hours they worked in excess of forty (40) hours per week when it knew or should have known such was due.

18. ALDO failed to properly disclose or apprise Plaintiffs and similarly situated employees of their rights under the FLSA.

19. Plaintiffs and similarly situated employees are entitled to time and one half of their regular rate of pay for each hour (or part thereof) worked over forty (40) in a work week, along with an equal amount of liquidated damages.

20. Plaintiffs have retained the undersigned counsel to represent them in this action. Pursuant to 29 U.S.C. §216(b), Plaintiffs are entitled to recover all reasonable attorneys' fees and costs incurred in this action.

21. Plaintiffs demand a jury trial.

COUNT I – FEDERAL OVERTIME WAGE VIOLATION

22. Plaintiffs re-allege paragraphs 1-21 above.

23. Plaintiffs and all other similarly situated employees are entitled to be paid time and one-half their regular rate of pay for each hour worked in excess of forty (40) hours per work week.

24. By reason of said intention, willful and unlawful acts of ALDO, Plaintiffs and all the other similarly situated employees have suffered damages, plus incurred costs and reasonable attorneys' fees.

25. As a result of ALDO's willful violation of the Act, Plaintiffs and the other similarly situated employees are entitled to liquidated damages.

WHEREFORE, Plaintiffs, KEILEEN PRADA and YOLIED GALLARDO demand judgment against Defendant, ALDO U.S. INC., for the payment of all overtime hours at one and one-half their regular rates of pay, liquidated damages and reasonable attorneys' fees and costs of suit, and such further relief that this Court deems just and appropriate.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury on all issues so triable.

Dated: November 7, 2016

JACOB AUERBACH P.A.

By: /s/ Jacob Auerbach
Jacob Auerbach, Esq.
Florida Bar No. 0084003
5521 N. University Drive, Suite 204
Coral Springs, FL 33067
Phone: (954) 906-8228
Jacob@aallawllc.com
Attorney for Plaintiffs

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS Keileen Prada and Yolied Gallardo on behalf of themselves and other similarly situated **DEFENDANTS** ALDO U.S., INC.

(b) County of Residence of First Listed Plaintiff (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) Attorneys (If Known)
 NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Jacob Auerbach P.A (954) 906-8228
 5521 N. University Dr., Ste 204 Coral Springs, FL 33067

(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) **III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	Citizen of This State	<input type="checkbox"/> 1 PTF	<input type="checkbox"/> 1 DEF	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 PTF	<input type="checkbox"/> 4 DEF
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	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)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander		PROPERTY RIGHTS	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	LABOR	SOCIAL SECURITY	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input checked="" type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 196 Franchise	PRISONER PETITIONS	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
	Habeas Corpus:	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		<input type="checkbox"/> 893 Environmental Matters
	<input type="checkbox"/> 463 Alien Detainee		FEDERAL TAX SUITS	<input type="checkbox"/> 895 Freedom of Information Act
	<input type="checkbox"/> 464 Employment		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 896 Arbitration
	<input type="checkbox"/> 442 Employment	IMMIGRATION	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
	<input type="checkbox"/> 445 Housing/Accommodations	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 465 Other Immigration Actions		
	<input type="checkbox"/> 446 Amer. w/Disabilities - Other			
	<input type="checkbox"/> 448 Education			
	<input type="checkbox"/> 448 Education			

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 7 Appeal to District Judge from Magistrate Judgment 8 Remanded from Appellate Court

VI. RELATED/RE-FILED CASE(S) (See instructions):
 a) Re-filed Case YES NO b) Related Cases YES NO

VII. CAUSE OF ACTION FAIR LABOR STANDARDS ACT 29 U.S.C. 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):
 LENGTH OF TRIAL via 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 \$** CHECK YES only if demanded in complaint: **JURY DEMAND:** Yes No

DATE 11/16 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY: RECEIPT # AMOUNT IFP JUDGE MAG JUDGE

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

UNITED STATES DISTRICT COURT

for the

Keileen Prada and Yolied Gallardo
on behalf of themselves and others similarly situated
under 29 U.S.C. Section 216(b)

Plaintiff(s)

v.

ALDO U.S., INC.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) ALDO U.S., INC.
c/o CT Corporation System
1200 South Pine Island Road
Planation, FL 33324

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:

Jacob Auerbach P.A.
Jacob Auerbach, Esq.
5521 N. University Drive, Suite 204
Coral Springs, FL 33324

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

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Retail Employees Hit Aldo U.S., Inc. with Unpaid Overtime Class Action](#)
