

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO:

EDGAR PRADO, on his own behalf
and those similiary situated,

Plaintiff,

v.

MC MIAMI ENTERPRISES, LLC, a Florida
Limited Liability Company,

Defendant.

_____ /

COMPLAINT AND JURY TRIAL

Plaintiff, EDGAR PRADO, (“Plaintiff”), on behalf of himself and other former employees similarly situated, by and through undersigned counsel, files this Complaint against Defendant, MC MIAMI ENTERPRISES, LLC, a Florida Limited Liability Company (“MC MIAMI” or “Defendant”) for unpaid overtime compensation, unpaid minimum wage compensation, liquidated damages, and other relief in violation of the Fair Labor Standards Act of 1938, 29 U.S.C. § 201, et seq. (“the FLSA”).

NATURE OF THE SUIT

1. This action is brought under the FLSA to recover from Defendant minimum wage, overtime compensation, liquidated damages, and reasonable attorneys' fees and costs under the FLSA.

2. This action is intended to cover Defendant’s wage violations against Plaintiff and on behalf of other similarly situated current and former non-exempt “tipped” employees of the

Defendant, who elect to opt into this action, pursuant to the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 216(b), within the past three (3) years pursuant to the FLSA.

PARTIES

3. Plaintiffs are non-exempt hourly paid service/restaurant employees and performed related activities for Defendant in Miami-Dade County, Florida. Plaintiff’s job duties as non-exempt tipped employees included, at varying times, serving food, cleaning tables, bussing tables, bartending, and other non-management/non administrative tasks involved in the production aspect of serving patrons food and beverages at Defendant’s restaurant.

4. Defendant, “MC MIAMI”, a Florida Limited Liability Company, is a restaurant located within Miami-Dade County, Florida.

JURISDICTION

5. Jurisdiction in this Court is proper as the claims are brought pursuant to the Fair Labor Standards Act, as amended (29 U.S.C. §201, et seq., hereinafter called the “FLSA”) to recover unpaid overtime wages, an additional equal amount as liquidated damages, obtain declaratory relief, and reasonable attorney’s fees and costs.

6. The jurisdiction of the Court over this controversy is based upon 29 U.S.C. §216(b).

7. This Court has the authority to grant declaratory relief pursuant to the FLSA and the Federal Declaratory Judgment Act (“DJA”), 28 U.S.C. §§ 2201-02.

COVERAGE

8. At all times during the last three (3) years, Defendant was an enterprise covered by the FLSA and as defined by 29 U.S.C. §§ 203(r) and 203(s).

9. At all times during the last three (3) years, Defendant was an employer within the meaning of the FLSA.

10. At all times material hereto, Defendant was, and continues to be, an “enterprise engaged in commerce” or in the production of goods for commerce within the meaning of § 3 (s)(1) of the Act, in that, said enterprise has had employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person.

11. Based upon information and belief, the annual gross revenue of Defendant was in excess of \$500,000.00 per annum during the all times relevant.

12. At all times material hereto, Defendant had two (2) or more employees handling, selling, or otherwise working on goods or materials that had been moved in or produced for commerce, such as food, drinks, beverages, cash registers, pots, pans, dishwashing equipment, telephones and other kitchen, food preparation and office materials and tools.

13. At all times material hereto, Plaintiff and others similarly situated, were “engaged in commerce” by virtue of the fact that they regularly completed financial transactions with Defendant’s customers’ credit card companies, banks, and third-party payment processing services outside the State of Florida, and with foreign customers/tourists as part of their daily duties with Defendant.

14. At all times material hereto, the work performed by Plaintiffs was directly essential to the business performed by Defendant in that Defendant could not operate their restaurant and businesses without, among others, bussers, servers, and bartenders.

15. At all times material hereto, Defendant “MC Miami” operated to serve food and beverage to the general public in a sit-down restaurant setting.

FACTUAL ALLEGATIONS

16. Defendant operates and/or operated a fine dining restaurant located in Miami-Dade County Florida.

17. Plaintiff, Edgar Prado, worked for Defendant as a non-exempt hourly paid “tipped” employee from approximately August of 2011, through February 2017. During his employment, Plaintiff worked anywhere between forty (45) hours each workweek and fifty (60) (or more) hours per workweek. He was normally scheduled from 4:00pm to close at least five (5) days per week. Plaintiff is not in possession of all of his pay and time records, and cannot, therefore, calculate with certainty, the amount of overtime and unpaid wages he is entitled to as a result of Defendants’ violations of the FLSA on a week by week basis, absent full access to same.

18. Plaintiff, and others similarly situated, were paid pursuant to a “tip-pool.”

19. During all times relevant, Defendant was required to pay employees minimum wage under both federal law for all hours worked.

20. Under the FLSA, if an employer satisfies the tip credit requirements, it may apply a portion of the employee’s tips (up to a maximum of \$3.02 per hour in Florida during all times relevant) to satisfy its obligation to pay its employees at least a minimum wage. The burden is on the employer to prove they are entitled to take the tip credit against the employee’s wages pursuant to the FLSA.

21. To utilize the tip credit under the FLSA, the employer must pay its employees the proper minimum wage and allow its tipped employees to retain **all the tips** they receive, except when there is a **valid arrangement for** “pooling of tips among employees who customarily and regularly receive tips.” 29 U.S.C. § 203(m). If an employer fails to satisfy either requirement, it may not take advantage of the tip credit and must pay its tipped employees the full applicable minimum wage for each and every hour worked during each workweek.

22. Defendant failed to satisfy the tip pooling requirements of 29 U.S.C. § 203(m) during all times relevant, because non-tipped employees such as managers, polishers, and food

expeditors, illegally participated in the tip pool. Thus, Defendant was not eligible for the tip credit and were required to pay Plaintiff the full applicable minimum wage rate required by the FLSA.

23. By failing to satisfy the requirements of 29 U.S.C. § 203(m) during all times relevant, Defendant was not eligible for the tip credit and were required to pay Plaintiff the full applicable overtime and minimum wage rate required by the FLSA.

24. During all times relevant, Defendant utilized the tip credit to pay Plaintiff, who served food and/or beverages to Defendants' customers, at an hourly wage rate that was less than the applicable minimum wage allowed under the FLSA. Additionally, Defendant did not allow Plaintiff to retain all of his tips. Defendant required Plaintiff to pay a portion of his tips to non-tipped employees and/or employees who illegally received tips shares such as managers, polishers, and food expeditors.

25. Specifically, Defendant required Plaintiff to give all cash tips/credit card tips to management and management held onto same, and then split these tips with employees that were not eligible to receive tips. In fact, these tips were shared with positions, such as managers, polishers, and food expeditors - work in what is referred to in Defendant's restaurant as "behind the wall,"- wherein these employees rarely, if ever, interact with Defendant's patrons.

26. Defendant also required Plaintiff, and other similarly situated employees, to work off the clock and attend meetings and clean the restaurant without accounting for, or compensating Plaintiff and the purported class members for same.

27. During all times relevant, and as explained above, Plaintiff worked over forty hours during multiple weeks of employment with Defendant.

28. During all times relevant, Defendant did not pay Plaintiff the applicable minimum wage rate for regular hours worked.

29. During all times relevant, Defendant did not pay Plaintiff the applicable overtime wage for overtime hours worked.

30. Moreover, during all times relevant, Defendant willfully engaged in practices that denied Plaintiff applicable minimum and overtime wages under the FLSA, because Defendant was aware that its tip pooling practices were/are illegal.

31. Plaintiff retained the undersigned counsel and agreed to pay a reasonable fee for all services rendered.

COUNT I - RECOVERY OF OVERTIME COMPENSATION (FLSA)

32. Plaintiff reincorporates and re-alleges paragraphs 1 through 31 as though set forth fully herein and further alleges as follows:

33. Plaintiff, and those similarly situated, are entitled to be paid time and one-half their regular rate of pay for each hour worked in excess of forty (40) per work week. During Plaintiff's employment with Defendant, Plaintiff regularly worked overtime hours, but was not paid proper time and one half compensation for same.

34. Plaintiff is not an exempt employees as defined by the FLSA.

35. As a result of Defendants' intentional, willful, and unlawful acts in refusing to pay Plaintiff, and those similarly situated to him, time and one half their regular rate of pay for each hour worked in excess of forty (40) per work week in one or more work weeks, Plaintiff has suffered damages plus incurring reasonable attorneys' fees and costs.

36. As a result of Defendant's willful violation of the FLSA, Plaintiff is entitled to liquidated damages. At all times material hereto, Defendant failed to comply with Title 29 and United States Department of Labor Regulations, 29 C.F.R. §§516.2 and 516.4, with respect to those similarly situated to the named Plaintiff by virtue of the management policy, plan or

decision that intentionally provided for inadequate overtime compensation of such employees at a rate less than time and a half the applicable minimum wage for their overtime hours.

37. Prior to the filing of this lawsuit, Defendant did not consult with a lawyer to determine whether their pay practices were in violation of the FLSA.

38. Prior to the filing of this lawsuit, Defendant did not consult with an accountant to determine whether their pay practices were in violation of the FLSA.

39. Prior to the filing of this lawsuit, Defendant did not consult with the DOL to determine whether their pay practices were in violation of the FLSA.

COUNT II
RECOVERY OF MINIMUM WAGES (FLSA)

40. Plaintiff reincorporates and readopts all allegations contained within Paragraphs 1-31 above.

41. Plaintiff, and those similarly situated, were entitled to be paid the applicable federal minimum wage for each week Plaintiff worked during Plaintiff's employment with Defendant.

42. Defendant failed to pay Plaintiff, and those similarly situated to him, the federal minimum wage for each week Plaintiff worked for Defendant.

43. Plaintiff has demanded proper compensation for one or more weeks of work with Defendant, but Defendant has refused and/or failed to compensate Plaintiff for same.

44. As a result of Defendant's actions in this regard, Plaintiff has not been paid the federal minimum wage for each hour worked during one or more weeks of employment with Defendant.

45. Defendant had specific knowledge that they were paying sub-minimum wages to Plaintiff, but still failed to pay Plaintiff at least minimum wages.

46. Specifically, by engaging in illegal tip pooling practices, Defendant attempted to utilize a tip credit which diminished the appropriate payment of minimum wages to Plaintiff, and those similarly situated, as required by the FLSA.

47. Defendant willfully failed to pay Plaintiff the federal minimum wage for one or more weeks of work contrary to 29 U.S.C. § 206.

48. As a direct and proximate result of Defendant's deliberate underpayment of wages, Plaintiff, and those similarly situated, has been damaged in the loss of minimum wages for one or more weeks of work with Defendant.

WHEREFORE, Plaintiff respectfully requests that judgment be entered in his favor against Defendant, and that this Court:

- a. Declare, pursuant to 29 U.S.C. §§2201 and 2202, that the acts and practices complained of herein are in violation of the maximum hour and minimum wage provisions of the FLSA;
- b. Award Plaintiff, and those similarly situated, overtime compensation in the amount due to them time worked in excess of forty (40) hours per work week;
- c. Awarding Plaintiff liquidated damages in an amount equal to the overtime award;
- d. Award Plaintiff, and those similarly situated to him, minimum wages in the amount due to him for each hour worked in each work week;
- e. Award Plaintiff liquidated damages in an amount equal to the minimum wages award;
- f. Award Plaintiff reasonable attorney's fees and costs and expenses of the litigation pursuant to 29 U.S.C. §216(b);
- g. Award Plaintiff pre-judgment interest; and ordering any other further relief

the Court deems just and proper.

JURY DEMAND

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

DATED this 18th day of May, 2017.

Respectfully Submitted,

Richard Celler Legal, P.A.
7450 Griffin Road, Suite 230
Davie, FL 33314
Telephone: (866) 344-9243
Facsimile: (954) 337-2771
Email:
richard@floridaovertimelawyer.com
Email:
noah@floridaovertimelawyer.com

By:

Richard Celler, Esq.
Florida Bar No.: 017330

By:

Noah E. Storch, Esq.
Florida Bar No.: 0085476

Trial Counsel for Plaintiffs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO:

EDGAR PRADO, on his own behalf
and those similiary situated,

Plaintiff,

v.

MC MIAMI ENTERPRISES, LLC, a Florida
Limited Liability Company,

Defendant.

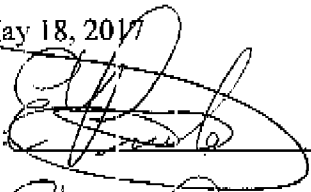
CONSENT TO BECOME PARTY PLAINTIFF

I, EDGAR PRADO, consent to become the party plaintiff in the above-styled
Lawsuit.

Date: May 18, 2017

Signature:

Print:


Edgar Prado

Southern District of Florida

Civil Action No.

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

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.)

I. (a) PLAINTIFFS

EDGAR PRADO, on his own behalf
and those similiary situated,

(b) County of Residence of First Listed Plaintiff Miami-Dade

(EXCEPT IN U.S. PLAINTIFF CASES)

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

Richard Celler Legal, P.A., 7450 Griffin Road, Suite 230, Davie, FL
33314 Tel: (866) 344-9243

DEFENDANTS

MC MIAMI ENTERPRISES, LLC, a Florida
Limited Liability Company,

County of Residence of First Listed Defendant Miami-Dade

(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
- ☒ 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 |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	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 - Medical 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/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <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	<input type="checkbox"/> 375 False Claims Act <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
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <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			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity).
 29 U.S.C. §201, et seq., hereinafter called the "FLSA"

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

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

DEMAND \$

CHECK YES only if demanded in complaint.

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE
05/18/2017

SIGNATURE OF ATTORNEY OF RECORD

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.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Suit Says MC Miami Enterprises Denies Employees Proper Wages](#)
