

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.:

NELSON ROMERO and all others similarly	)
situated under 29 U.S.C. 216(B),	)
	)
Plaintiff,	)
vs.	)
	)
GREAT MOBILITY, INC., d/b/a	)
GREAT MOBILITY,	)
IRENE BRITO,	)
	)
Defendants.	)
_____	)

**COMPLAINT UNDER 29 U.S.C. 201- 216 OVERTIME VIOLATIONS**

Plaintiff, NELSON ROMERO on behalf of himself and all others similarly situated under 29 U.S.C. 216(b), through undersigned counsel, files this Complaint against Defendants, GREAT MOBILITY, INC., d/b/a GREAT MOBILITY, and IRENE BRITO, and alleges:

1. This is an action arising under the Fair Labor Standards Act 29 U.S.C. §§ 201-216.
2. The Plaintiff was a resident of Dade County, Florida at the time that this dispute arose.
3. The Defendant GREAT MOBILITY, INC., d/b/a GREAT MOBILITY, is a corporation that regularly transacts business within Dade County. Upon information and belief, the Defendant Corporation was the joint FLSA employer for Plaintiff’s respective period of employment (“the relevant time period”).
4. The individual Defendant IRENE BRITO is a corporate officer and/or owner and/or manager of the Defendant Corporation who ran the day-to-day operations of the Corporate Defendant for the relevant time period and was responsible for paying Plaintiffs’ wages for the relevant time period and controlled Plaintiffs’ work and schedule and was therefore Plaintiffs’

employer as defined by 29 U.S.C. 203 (d).

5. All acts or omissions giving rise to this dispute took place in Dade County.

### **COUNT I. FEDERAL OVERTIME WAGE VIOLATION**

6. This action arises under the laws of the United States. This case is brought as a collective action under 29 USC 216(B). It is believed that the Defendants have employed several other similarly situated employees like Plaintiff who have not been paid overtime and/or minimum wages for work performed in excess of 40 hours weekly from the filing of this complaint back three years.
7. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 as this case is brought pursuant to The Fair Labor Standards Act, 29 U.S.C. §§ 201-219 (section #216 for jurisdictional placement).
8. 29 U.S.C. § 207 (a) (1) states, "Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed."
9. Plaintiff worked for Defendants as a patient transporter from on or about January 10, 2015 through on or about April 4, 2015.
10. Defendants' business activities involve those to which the Fair Labor Standards Act applies. Both the Defendants' business and the Plaintiff's work for the Defendants affected interstate commerce for the relevant time period. Plaintiff's work for the Defendants affected interstate

commerce for the relevant time period because the materials and goods that Plaintiff used on a constant and/or continual basis and/or that were supplied to him by the Defendants to use on the job moved through interstate commerce prior to and/or subsequent to Plaintiff's use of the same. The Plaintiff's work for the Defendants was actually in and/or so closely related to the movement of commerce while he worked for the Defendants that the Fair Labor Standards Act applies to Plaintiff's work for the Defendants.

11. Additionally, Defendants regularly employed two or more employees for the relevant time period who handled goods or materials that travelled through interstate commerce, or used instrumentalities of interstate commerce, thus making Defendants' business an enterprise covered under the Fair Labor Standards Act.
12. Upon information and belief, the Defendant Corporations had gross sales or business done in excess of \$500,000 annually for the years 2011, 2012, 2013, 2014, and 2015.
13. Between the period of on or about January 10, 2015 through on or about April 4, 2015, Plaintiff worked an average of 63 hours a week for Defendants and was paid \$550.00 weekly, making Plaintiff's average hourly rate \$8.73 per hour, but was never paid the extra half time rate for any hours worked over 40 hours in a week as required by the Fair Labor Standards Act. Plaintiff therefore claims the half time overtime rate for each hour worked above 40 in a week.
14. More specifically the U.S. Department of Labor already found Plaintiff is owed \$2,828.20 in unpaid wage compensation. A true and correct copy of this letter is attached hereto as **Exhibit 1**.
15. Defendants willfully and intentionally refused to pay Plaintiff's overtime wages as required by the Fair Labor Standards Act as Defendants knew of the overtime requirements of the Fair

Labor Standards Act and recklessly failed to investigate whether Defendants' payroll practices were in accordance with the Fair Labor Standards Act. Defendants remain owing Plaintiff these wages since the commencement of Plaintiff's employment with Defendants for the time period specified above.

Wherefore, the Plaintiff requests double damages and reasonable attorney fees from Defendants, jointly and severally, pursuant to the Fair Labor Standards Act as cited above, to be proven at the time of trial for all overtime wages still owing from Plaintiff's entire employment period with Defendants or as much as allowed by the Fair Labor Standards Act along with court costs, interest, and any other relief that this Court finds reasonable under the circumstances. *The Plaintiff requests a trial by jury.*

Respectfully Submitted,

J.H. Zidell, Esq.  
J.H. Zidell, P.A.  
Attorney For Plaintiff  
300 71<sup>st</sup> Street, Suite 605  
Miami Beach, Florida 33141  
Tel: (305) 865-6766  
Fax: (305) 865-7167

By:     /s/ J.H. Zidell      
J.H. Zidell, Esq.  
Florida Bar Number: 0010121

## U. S. Department of Labor

Wage & Hour Division  
Miami District Office  
10300 Sunset Drive, Suite 255  
Miami, FL 33173  
Tel. (305) 598-6607  
Fax (305) 279-8393



May 25, 2017

Nelson Romero  
15309 SW 11<sup>th</sup> Street  
Miami, FL 33194

Subject: **Great Mobility Inc. d.b.a. Great Mobility Inc.**

File Number: 1808393

Dear Mr. Romero:

Based on the findings of a Fair Labor Standards Act (FLSA) investigation conducted by the Wage and Hour Division (WHD) of the above named employer, you were found to be owed **\$2,828.20** in unpaid wage compensation calculated by the WHD for the employment period beginning **01/10/2015** and ending **04/14/2015**. Specifically, the above-named company violated the FLSA by failure to pay minimum wage. The FLSA requires employers to pay each non-exempt employee covered by the Act no less than the federal minimum wage of \$7.25 per hour and overtime premium pay at time and one-half the regular rate of pay for all hours worked in excess of 40 hours in a single workweek.

The WHD contacted the employer, explained the FLSA wage requirements, and requested payment of the wages owed to you. The employer would not agree to voluntarily pay the wages owed to you. The WHD has the authority to file court actions against employers who do not agree to voluntarily resolve violations of the FLSA. However, the WHD's resources do not permit it to litigate all of the cases for which it is unable to obtain the employer's agreement to pay. Consequently, it is necessary for the WHD to advise certain complainants that it will not pursue litigation on their behalf and advise them of other resources that may be available to them to resolve their claims.

The WHD is declining to litigate your complaint and will not take any further action on your behalf. **The decision by the WHD not to litigate your claim and to take no further action on your behalf does not affect your right to bring a private action in court under the FLSA to recover unpaid minimum wages or unpaid overtime compensation owed to you for the period of time indicated above and an equal amount in liquidated damages, plus attorney's fees and court costs under section 16(b) of the FLSA.** The WHD does not encourage or discourage such legal action. The decision to pursue a private action is entirely up to you.

If you wish to pursue a private action and would like assistance locating an attorney who may be interested in your case, the American Bar Association (ABA) has a web portal that can help you identify experienced attorneys in your area that are available: [www.ABALaborLawReferral.org](http://www.ABALaborLawReferral.org).

If you decide to contact an ABA-approved attorney referral provider, please tell the provider that you obtained their contact information using the ABA web portal address provided by the WHD in this letter. Please note that WHD is providing this web address as a service to those complainants seeking further assistance. **The WHD does not guarantee the accuracy of the information provided through the web portal or by any ABA-approved attorney referral provider, nor does the WHD guarantee that an attorney will accept your case.** In addition, WHD is not endorsing the services of any attorney to whom you may be referred, or guaranteeing the results of any services that attorney may provide. **Providing the web address creates no liability on the part of the government.**

**WORKING TO IMPROVE THE LIVES OF AMERICA'S WORKERS**



If you choose to pursue a private action, you may request, using the "Request for Documents" sheet attached to this letter, the following documents to provide to the ABA attorney to whom you were referred:

1. Your personal complaint documents (e.g. written statements, records of hours worked, pay stubs) you provided to the WHD;
2. Back wage computations/WH-55 or equivalent, pertaining to you only;
3. Your interview statement;
4. Case File Investigation Narrative Report

If you choose to request documents numbers 1 – 3 above, the WHD will promptly provide the documents to you. If you include document number 4 above, your overall request will likely take longer to complete. Additional documents other than those noted above may be obtained by you or your attorney by making a Freedom of Information Act (FOIA) request in writing. Please note that information such as the names of other employees or witnesses that were a part of the investigation will not be provided as part of any request.

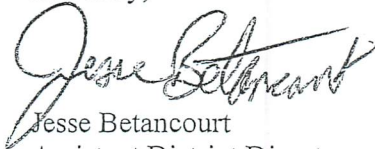
The Request for Documents should be sent to the following address:

Referral Document Request  
U.S. Department of Labor  
Wage and Hour Division  
200 Constitution Avenue N.W., S-3502  
Washington, D.C. 20210

Please keep in mind that recovery of unpaid back wages under the FLSA is subject to a two-year statute of limitations unless the employer's actions are willful, which extends the statute of limitations an additional year. Generally, this means that any part of a back wage claim which was earned more than two years before a lawsuit is filed may not be recoverable.

A copy of the Handy Reference Guide (HRG) to the FLSA is enclosed for your information. Please feel free to contact this office at (305) 598-6607, if you have any questions regarding this letter.

Sincerely,

  
Jesse Betancourt  
Assistant District Director

Enclosure: FLSA Handy Reference Guide

JMS/lis

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UNITED STATES DISTRICT COURT

for the  
Southern District of Florida

NELSON ROMERO and all others similarly )  
situated under 29 U.S.C. 216(B), )

Plaintiff, )

vs. )

GREAT MOBILITY, INC., d/b/a )  
GREAT MOBILITY, )  
IRENE BRITO )

Defendants. )

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**SUMMONS IN A CIVIL ACTION**

To: (Defendant's name and address)  
GREAT MOBILITY, INC. d/b/a GREAT MOBILITY  
Registered Agent: Elizabeth Sanchez  
2500 NW 79<sup>th</sup> Ave Suite 232  
Miami, FL 33122

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:

J.H. Zidell, Esq.  
J.H. Zidell P.A.  
300 71<sup>ST</sup> Street, Suite 605  
Miami Beach, Florida 33141

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: \_\_\_\_\_

\_\_\_\_\_

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**UNITED STATES DISTRICT COURT**

for the  
Southern District of Florida

NELSON ROMERO and all others similarly )  
situated under 29 U.S.C. 216(B), )

Plaintiff, )

vs. )

GREAT MOBILITY, INC., d/b/a )

GREAT MOBILITY, )

IRENE BRITO, )

Defendants. )

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**SUMMONS IN A CIVIL ACTION**

To: (Defendant's name and address)

IRENE BRITO

Registered Agent: Elizabeth Sanchez

2500 NW 79<sup>th</sup> Ave Suite 232

Miami, FL 33122

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:

J.H. Zidell, Esq.

J.H. Zidell P.A.

300 71<sup>ST</sup> Street, Suite 605

Miami Beach, Florida 33141

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: \_\_\_\_\_

\_\_\_\_\_



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 Romero, Nelson and all others similarly situated under 29 U.S.C. 216(b), DEFENDANTS Great Mobility, Inc., d/b/a Great Mobility, Irene Brito,

(b) County of Residence of First Listed Plaintiff Miami-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) J.H. Zidell, P.A. 300 71st St., Suite 605, Miami Beach, FL 33141 phone: 305-865-6766

(d) Check County Where Action Arose: [X] 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)

Form with checkboxes for Basis of Jurisdiction (Federal Question, Diversity) and Citizenship of Principal Parties (Citizen of This State, Citizen of Another State, Foreign Nation).

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

Large grid form for Nature of Suit with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only) [X] 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 [X] NO b) Related Cases [ ] YES [X] NO JUDGE DOCKET NUMBER

VII. CAUSE OF ACTION 29 USC §§ 201-216 LENGTH OF TRIAL via 3-5 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: [X] Yes [ ] No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE DATE July 24, 2017 SIGNATURE OF ATTORNEY OF RECORD

**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.C.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; 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 clerks 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 seven 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.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

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.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

**VI. Related/Refiled Cases.** This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

**VII. 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

**VIII. 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 dollar amount (in thousands of dollars) 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.

**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: [Great Mobility, Owner Owe Unpaid Overtime, Lawsuit Claims](#)

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