

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
KEY WEST DIVISION

Case No. _____

MAIVI RUBAL, and other similarly situated)
individuals,)
)
Plaintiff(s),)
)
v.)
)
BIG JOHN'S PIZZA, PASTA & SUBS CO.,)
FRANK SIPOS a/k/a FRANTISEK SIPOS,)
and CLAUDIA JONISOVA,)
)
Defendants.)
)
_____)

COMPLAINT
(OPT-IN PURSUANT TO 29 U.S.C § 216(B))

Plaintiffs MAIVI RUBAL (“Plaintiff”) and other similarly situated individuals sue defendants BIG JOHN'S PIZZA, PASTA & SUBS CO. (the “Corporate Defendant”), FRANK SIPOS a/k/a FRANTISEK SIPOS and CLAUDIA JONISOVA (the “Individual Defendants”) (collectively, the “Defendants”) and allege:

NATURE OF ACTION

1. This action involves the application of the Fair Labor Standards Act, 29 U.S.C. § 201-219 (“the Act”); Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act, 42 U.S.C.A. §§ 2000e *et seq.* (“PDA”), the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* (“ADA”), and the Florida Civil Rights Act, Fla. Stat. § 760 *et seq.* (the “FCRA”)¹.

JURISDICTION AND VENUE

¹ Should discovery reveal that the Corporate Defendant employed more than 50 employees, the Plaintiff will amend this complaint to include counts under the FMLA.

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1343(3). Jurisdiction is also invoked pursuant to § 216 of the Act, 42 U.S.C. § 2000e-5(f), 28 U.S.C. §§ 1343(3) and 1343(4), and pursuant to 28 U.S.C.A. § 1367.

3. Venue is proper under the Act, 28 U.S.C. § 1391(b) and 42 U.S.C. § 2000e-5(f)(3) because the acts complained of occurred within this judicial district and because the Corporate Defendant has its principal place of business within the district, resides in the judicial district and because the employment records of Plaintiff are stored or have been administered within this judicial district.

4. Defendants are a Florida company and a Florida resident, respectively, having their main place of business in Key West, Florida, where Plaintiff worked for Defendants, and at all times material hereto were and are engaged in interstate commerce. The Individual Defendants, upon information and belief, reside in Key West, Florida.

THE PARTIES

5. Plaintiff is a female and resident of Key West, Florida, within the jurisdiction of this Honorable Court.

6. Plaintiff is a covered employee for purposes of the Act.

7. At all times material, Plaintiff was an “employee” within the meaning of PDA, the ADA, and the FCRA.

8. At all times material hereto, Plaintiff was an “aggrieved person” as defined by the FCRA, Fla. Stat. § 760.02(10).

9. At all times material, Defendant was an employer within the meaning of the PDA, the ADA, and the FCRA, and was engaged in an industry affecting commerce, and on

information and belief, employed more than fifteen (15) employees for each working day in each of twenty (20) or more calendar weeks in the then current or preceding calendar year.

CONDITIONS PRECEDENT

10. Plaintiff has fulfilled all conditions precedent to the institution of this action under 42 U.S.C.A. § 2000e. A Notice of Right To Sue was issued by the Equal Employment Opportunity Commission (EEOC) on July 13, 2017.

11. Plaintiff has also complied with all conditions precedent required by the FCRA, and is filing this complaint more than 180 days from the date of she dual-filed her charge of discrimination with the EEOC.

GENERAL ALLEGATIONS

12. Defendant employed Plaintiff as a server from June 28, 2016 to October 23, 2016.

13. Plaintiff's duties as a server was to take orders, serve food, clean tables, answer the phone and utilize the cash register.

14. Defendant, CLAUDIA JONISOVA (individually "Jonisova") directly supervised Plaintiff.

15. In or about September 2016, Plaintiff discovered that she was pregnant.

16. Plaintiff immediately informed Jonisova and Defendant, FRANK SIPOS a/k/a FRANTISEK SIPOS (individually, "Sipos").

17. On September 19, 2016, Plaintiff experienced vaginal bleeding and was taken to the emergency room at Lower Key's Medical Center's Emergency Department.

18. Plaintiff was treated and directed to stay off her feet. She was given a return to work date of September 26, 2016.

19. Plaintiff's mother, Vivian Yern, took Plaintiff's work release form to Jonisova.

20. On September 26, 2016, Plaintiff experienced more bleeding and she was directed to remain on rest until October 7, 2016, on physician's orders.

21. Plaintiff rested for two days, but because it was necessary for her to work, she went back to work prior to October 7, 2016.

22. On October 23, 2016, after working a double shift the previous day, Plaintiff called Jonisova and informed her that she was going to be late, as she did not feel well because of her pregnancy.

23. Jonisova told Plaintiff that Sipos was at the restaurant and would not be happy.

24. Five minutes after Plaintiff arrived at work and clocked in, Sipos terminated her.

25. Prior to her termination, Plaintiff had worked 4-5 weeks overtime, without receiving time and one half her regular rate of pay for those hours she worked in excess of forty per week.

**COUNT I: WAGE AND HOUR VIOLATION BY
BIG JOHN'S PIZZA, PASTA & SUBS CO. (OVERTIME)**

26. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1-25 above as if set out in full herein.

27. This action is brought by Plaintiff and those similarly situated to recover from the Corporate Defendant unpaid overtime compensation, as well as an additional amount as liquidated damages, costs, and reasonable attorneys' fees under the provisions of 29 U.S.C. § 201 et seq., and specifically under the provisions of 29 U.S.C. § 207. 29 U.S.C. § 207 (a)(1) 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."

28. Jurisdiction is conferred on this Court by Title 28 U.S.C. § 1337 and by Title 29 U.S.C. § 216(b). The Corporate Defendant is and, at all times pertinent to this Complaint, was engaged in interstate commerce. At all times pertinent to this Complaint, the Corporate Defendant operates as an organization which sells and/or markets its services and/or goods to customers from throughout the United States and also provides its services for goods sold and transported from across state lines of other states, and the Corporate Defendant obtains and solicits funds from non-Florida sources, accepts funds from non-Florida sources, uses telephonic transmissions going over state lines to do its business, transmits funds outside the State of Florida, and otherwise regularly engages in interstate commerce, particularly with respect to its employees. Upon information and belief, the annual gross revenue of the Corporate Defendant was at all times material hereto in excess of \$500,000 per annum, and/or Plaintiff and those similarly situated, by virtue of working in interstate commerce, otherwise satisfy the Act's requirements.

29. By reason of the foregoing, the Corporate Defendant 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 Plaintiff and those similarly situated was and/or is engaged in interstate commerce for the Corporate Defendant. The Corporate Defendant's business activities involve those to which the Act applies. The Corporate Defendant is a Restaurant and, through its business activity, affects interstate commerce. The Plaintiff's work for the Corporate Defendant likewise affects interstate commerce. Plaintiff was employed by the Corporate Defendant as a Waitress/Receptionist for the Corporate Defendant's business.

30. While employed by the Corporate Defendant, Plaintiff worked approximately an average of 42-45 hours per week (for approximately 4-5 weeks) without being compensated at the rate of not less than one and one half times the regular rate at which she was employed. Plaintiff was employed as a Waitress/Receptionist performing the same or similar duties as that of those other similarly situated Waitress/Receptionists whom Plaintiff observed working in excess of 40 hours per week without overtime compensation.

31. Plaintiff worked for the Corporate Defendant from approximately 06/28/2016 to 10/23/2016. In total, Plaintiff worked approximately 4-5 compensable weeks under the Act, or 4-5 compensable weeks if we count 3 years back from the filing of the instant action.

32. The Corporate Defendant paid Plaintiff on average approximately \$9.00 per hour.

33. On occasion, the Plaintiff also made tips, which are her property.

34. Corporate Defendant did not properly compensate Plaintiff for hours that Plaintiff worked in excess of 40 per week.

35. Plaintiff seeks to recover unpaid overtime wages accumulated from the date of hire and/or from 3 (three) years back from the date of the filing of this Complaint.

36. Prior to the completion of discovery and to the best of Plaintiff's knowledge, at the time of the filing of this Complaint, Plaintiff's good faith estimate of unpaid overtime wages is as follows:

a. Actual Damages: \$337.50

- i. Calculation: $\$9.00 \times 1.5$ (overtime rate) $\times 5$ (weekly overtime hours) $\times 5$ (compensable weeks) = \$337.50

b. Liquidated Damages: \$337.50

c. Total Damages: \$675.00 plus reasonable attorneys' fees and costs of suit.

37. At all times material hereto, the Corporate Defendant 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 Plaintiff and those similarly situated performed services and worked in excess of the maximum hours provided by the Act but no provision was made by the Corporate Defendant to properly pay them at the rate of time and one half for all hours worked in excess of forty hours (40) per workweek as provided in the Act. The additional persons who may become Plaintiffs in this action are weekly-paid employees and/or former employees of the Corporate Defendant who are and who were subject to the unlawful payroll practices and procedures of the Corporate Defendant and were not paid time and one half of their regular rate of pay for all overtime hours worked in excess of forty.

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

39. The Corporate Defendant willfully and intentionally refused to pay Plaintiff overtime wages as required by the laws of the United States as set forth above and remains owing Plaintiff these overtime wages since the commencement of Plaintiff's employment with the Corporate Defendant as set forth above.

40. Plaintiff has retained the law offices of the undersigned attorney to represent her in this action and is obligated to pay a reasonable attorneys' fee.

PRAYER FOR RELIEF

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

- A. Enter judgment for Plaintiff and others similarly situated and against the Corporate Defendant on the basis of the Corporate Defendant's willful violations of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. and other Federal Regulations; and
- B. Award Plaintiff actual damages in the amount shown to be due for unpaid wages and overtime compensation for hours worked in excess of forty weekly; and
- C. Award Plaintiff an equal amount in double damages/liquidated damages; and
- D. Award Plaintiff reasonable attorneys' fees and costs of suit; and
- E. Grant such other and further relief, as this Court deems equitable and just.

**COUNT II: WAGE AND HOUR VIOLATION BY
FRANK SIPOS a/k/a FRANTISEK SIPOS and CLAUDIA JONISOVA (OVERTIME)**

41. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1-40 above as if set out in full herein.

42. At the times mentioned, the Individual Defendants were, and are now, the owners/officers of the Corporate Defendant. The Individual Defendants were an employer of Plaintiff and others similarly situated within the meaning of Section 3(d) of the Act [29 U.S.C. § 203(d)], in that these defendants acted directly or indirectly in the interests of the Corporate Defendant in relation to the employees of the Corporate Defendant, including Plaintiff and others similarly situated. The Individual Defendants had operational control of the Corporate Defendant, were involved in the day-to-day functions of the Corporate Defendant, provided Plaintiff with her work schedule, and are jointly liable for Plaintiff's damages.

43. The Individual Defendants are and were at all times relevant persons in control of the Corporate Defendant's financial affairs and can cause the Corporate Defendant to compensate (or not to compensate) its employees in accordance with the Act.

44. The Individual Defendants willfully and intentionally caused Plaintiff not to receive overtime compensation as required by the laws of the United States as set forth above and remain owing Plaintiff these overtime wages since the commencement of Plaintiff's employment with the Corporate Defendant as set forth above.

45. Plaintiff has retained the law offices of the undersigned attorney to represent her in this action and is obligated to pay a reasonable attorneys' fee.

PRAYER FOR RELIEF

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

- A. Enter judgment for Plaintiff and others similarly situated and against the Individual Defendants on the basis of the Defendants' willful violations of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. and other Federal Regulations; and
- B. Award Plaintiff actual damages in the amount shown to be due for unpaid wages and overtime compensation for hours worked in excess of forty weekly; and
- C. Award Plaintiff an equal amount in double damages/liquidated damages; and
- D. Award Plaintiff reasonable attorneys' fees and costs of suit; and
- E. Grant such other and further relief as this Court deems equitable and just.

COUNT III: VIOLATION OF THE PDA

46. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1-24 above as if set out in full herein.

47. Plaintiff was a member of a protected class of pregnant citizens.

48. She was qualified for the position of server.

49. Plaintiff informed the Corporate Defendant that she was pregnant and the Corporate Defendant knew Plaintiff was experiencing pregnancy complications at the time of her employment.

50. The Corporate Defendant intentionally engaged in unlawful employment practices and discrimination in violation of the PDA by treating Plaintiff differently than similarly situated employees in the terms and conditions of her employment and ultimately terminating her.

51. Plaintiff's pregnancy was a motivating factor in her termination.

52. Because of such actions by the Corporate Defendant, Plaintiff has suffered both irreparable injury and compensable damage unless and until this Court grants relief.

53. As a direct and proximate result of the actions of the Corporate Defendant set forth above, Plaintiff has suffered, is now suffering, and will continue to suffer, emotional pain and mental anguish.

54. As a direct and proximate result of such actions, Plaintiff has been, is being, and will be in the future, deprived of income in the form of wages and of prospective benefits due to the Plaintiff solely because of the Corporate Defendant's conduct.

WHEREFORE, Plaintiff demands judgment against the Corporate Defendant as follows:

- A. A declaration that the acts and practices of the Corporate Defendant complained of in this Complaint are in violation of the PDA;
- B. Injunctive relief ordered by the court enjoining and permanently restraining these violations of the PDA by the Corporate Defendant;

- C. An order of this Court directing the Corporate Defendant to place Plaintiff in the position she would have occupied but for the Corporate Defendant's discriminatory treatment of her, and making her whole for all earnings and other benefits she would have received but for the Corporate Defendant's discriminatory treatment, including but not limited to wages, pension, and other lost benefits, according to proof;
- D. An award of compensatory damages for past, present, and future mental anguish, pain and suffering, and humiliation caused by the Corporate Defendant's intentional discrimination, according to proof;
- E. An award of punitive damages, according to proof;
- F. An award of the costs of this action together with reasonable attorney's fees;
- G. Such other and further relief as the Court deems just and proper.

COUNT IV: VIOLATION OF THE FCRA -- GENDER DISCRIMINATION

55. Plaintiff re-adopts each and every factual allegation as stated in paragraphs 1-24 above as if set out in full herein.

56. Plaintiff was a member of a protected class of female citizens.

57. She was qualified for position of a server.

58. Plaintiff informed the Corporate Defendant that she was pregnant. The Corporate Defendant intentionally engaged in unlawful employment practices and discrimination in violation of the FCRA by treating Plaintiff differently than similarly situated employees in the terms and conditions of her employment and ultimately terminating her. Plaintiff's pregnancy was a motivating factor in her termination.

59. At all times material hereto, the Corporate Defendant failed to comply with the FCRA which states that it is an unlawful employment practice for an employer 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.

60. Plaintiff has been terminated and subjected to disparate treatment because of her gender in violation of the FCRA, and because of such actions by the Corporate Defendant she has suffered both irreparable injury and compensable damage unless and until this Court grants relief.

61. Plaintiff's gender is a motivating factor for Plaintiff to be treated differently and fired by the Corporate Defendant.

62. As a direct and proximate result of the above-described actions of the Corporate Defendant, Plaintiff has suffered, is now suffering, and will continue to suffer, emotional pain and mental anguish. As a direct and proximate result of such actions, Plaintiff has been, is being, and will be in the future, deprived of income in the form of wages and of prospective benefits due to the Plaintiff solely because of the Corporate Defendant's conduct.

WHEREFORE, Plaintiff demands judgment against the Corporate Defendant, as follows:

- A. A declaration that the acts and practices of the Corporate Defendant complained of in this Complaint are in violation of the FCRA;
- B. Injunctive relief ordered by the court enjoining and permanently restraining these violations of the FCRA by Defendant;
- C. An order of this Court directing the Corporate Defendant to place Plaintiff in the position she would have occupied but for the Corporate Defendant's discriminatory treatment of her, and making her whole for all earnings and other benefits she would

have received but for the Corporate Defendant's discriminatory treatment, including but not limited to wages, pension, and other lost benefits, according to proof;

- D. An award of compensatory damages for past, present, and future mental anguish, pain and suffering, and humiliation caused by the Corporate Defendant's intentional discrimination, according to proof;
- E. An award of punitive damages, according to proof;
- F. An award of the costs of this action together with reasonable attorney's fees,
- G. Such other and further relief as the Court deems just and proper.

COUNT V: VIOLATION OF THE ADA – FAILURE TO ACCOMODATE

63. Plaintiff adopts and incorporates by reference the allegations in paragraphs 1-24 of this Complaint.

64. Plaintiff's health condition related to her pregnancy and vaginal bleeding qualified as a disability or was regarded as a disability by the Corporate Defendant, within the meaning of the ADA.

65. By advising her employer that she was going to be late for work due to her medical condition, Plaintiff requested a reasonable accommodation for her disability or perceived disability under the ADA.

66. The Corporate Defendant did not make a good faith effort to assist Plaintiff in seeking accommodations.

67. Plaintiff could have been reasonably accommodated but for the Corporate Defendant's lack of good faith.

68. the Corporate Defendant could have reasonably accommodated Plaintiff, without any undue hardship to its business, but failed to do so.

69. Instead of reasonably accommodating Plaintiff in good faith, the Corporate Defendant terminated Plaintiff.

70. As a direct and proximate result of the above-described actions of the Corporate Defendant, Plaintiff has suffered and will continue to suffer, emotional pain and mental anguish.

71. Furthermore, as a direct and proximate result of such actions by the Corporate Defendant, Plaintiff has been and will be in the future, deprived of income in the form of wages and of prospective benefits solely because of the Corporate Defendant's conduct.

WHEREFORE, Plaintiff requests that this Honorable Court:

- a. Enter judgment in Plaintiff's favor and against Defendant for its violations of the ADA;
- b. Award Plaintiff actual damages suffered, including lost wages, loss of fringe benefits and damages;
- c. Award Plaintiff compensatory damages under the ADA for embarrassment, anxiety, humiliation and emotional distress Plaintiff has suffered and continues to suffer;
- d. Award Plaintiff prejudgment interest on her damages award;
- e. Award Plaintiff punitive damages as allowed by law;
- f. Award Plaintiff reasonable costs and attorney's fees; and
- g. Grant Plaintiff such other and further relief as this Court deems equitable and just.

**COUNT VI: VIOLATION OF THE FCRA – HANDICAP DISCRIMINATION -
FAILURE TO ACCOMODATE**

72. Plaintiff adopts and incorporates by reference the allegations in paragraphs 1-24 of this Complaint.

73. Plaintiff's health condition related to her pregnancy and vaginal bleeding qualified as a disability or was regarded as a disability by the Corporate Defendant, within the meaning of the FCRA.

74. By advising her employer that she was going to be late for work due to her medical condition, Plaintiff requested a reasonable accommodation for her handicap or perceived handicap under the FCRA.

75. The Corporate Defendant did not make a good faith effort to assist Plaintiff in seeking accommodations.

76. Plaintiff could have been reasonably accommodated but for the Corporate Defendant's lack of good faith.

77. the Corporate Defendant could have reasonably accommodated Plaintiff, without any undue hardship to its business, but failed to do so.

78. Instead of reasonably accommodating Plaintiff in good faith, the Corporate Defendant terminated Plaintiff.

47. Corporate Defendant did not treat similarly situated, non-handicapped individuals in the same manner.

48. Corporate Defendant thereby discriminated against Plaintiff in the terms, conditions and benefits of her employment in violation of the FCRA.

49. Plaintiff has been subjected to disparate treatment because of her handicap or in violation of the FCRA, and because of such actions by the Corporate Defendant, she has suffered both irreparable injury and compensable damage unless and until this Court grants relief.

50. The Corporate Defendant's actions were malicious and were recklessly indifferent to the Plaintiff's rights pursuant to the FCRA.

51. As a direct and proximate result of the above-described actions of the Corporate Defendant, Plaintiff has suffered, is now suffering, and will continue to suffer, emotional pain and mental anguish. Furthermore, as a direct and proximate result of such actions by the Corporate Defendant, Plaintiff has been, is being, and will be in the future, deprived of income in the form of wages and of prospective benefits solely because of Corporate Defendant's conduct.

WHEREFORE, Plaintiff requests that this Honorable Court:

- a. Issue a declaration that the acts and practices of Corporate Defendant complained of in this Complaint are in violation of the FCRA;
- b. Award injunctive relief ordered by the Court enjoining and permanently restraining these violations of the FCRA by Corporate Defendant;
- c. Award actual damages suffered, including lost wages, loss of fringe benefits and damages;
- d. Award compensatory damages for past, present, and future mental anguish, pain and suffering, and humiliation caused by Corporate Defendant's intentional discrimination, according to proof;
- e. Award punitive damages, according to proof;
- f. Award Plaintiff the costs of this action together with reasonable attorney's fees, as provided by the FCRA; and
- g. Award any other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff and those similarly situated demand trial by jury of all issues so triable as of right.

Dated: October 9, 2017.

Respectfully submitted,

By: /s/ R. Martin Saenz
R. Martin Saenz, Esquire
Fla. Bar No.: 0640166
Email: msaenz@saenzanderson.com
SAENZ & ANDERSON, PLLC

20900 NE 30th Avenue, Ste. 800
Aventura, Florida 33180
Telephone: (305) 503-5131
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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

MAIVI RUBAL, and other similarly situated individuals,

(b) County of Residence of First Listed Plaintiff Monroe (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

BIG JOHN'S PIZZA, PASTA & SUBS CO., FRANK SIPOS a/k/a FRANTISEK SIPOS, and CLAUDIA JONISOVA,

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, Real Estate, 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): FLSA, 29 U.S.C. § 201-219; Title VII, 42 U.S.C.A. §§ 2000e et seq.; ADA, 42 U.S.C. § 12101 et seq. Brief description of cause: Unpaid wages and employment discrimination

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: October 9, 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

MAIVI RUBAL, and other similarly situated individuals,

Plaintiff(s)

v.

BIG JOHN'S PIZZA, PASTA & SUBS CO., FRANK SIPOS a/k/a FRANTISEK SIPOS, and CLAUDIA JONISOVA,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) BIG JOHN'S PIZZA, PASTA & SUBS CO. c/o SIPOS, FRANK 1103 KEY PLAZA KEY WEST, FL 33040

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

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

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

MAIVI RUBAL, and other similarly situated individuals,

Plaintiff(s)

v.

BIG JOHN'S PIZZA, PASTA & SUBS CO., FRANK SIPOS a/k/a FRANTISEK SIPOS, and CLAUDIA JONISOVA,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) FRANK SIPOS a/k/a FRANTISEK SIPOS 1103 KEY PLAZA KEY WEST, FL 33040

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

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_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

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Other *(specify)*:

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

Date: _____

Server's signature

Printed name and title

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Additional information regarding attempted service, etc:

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Civil Action No. _____

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Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [FL Woman's Suit Against Big John's Pizza, Pasta & Subs Alleges Discrimination, Unpaid OT](#)
