

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
ALBER SAMAME, on behalf of himself and others similarly
situated,

Plaintiff,

Case No.: 18-cv-283

-against-

COMPLAINT

JOSEPH CORY HOLDINGS LLC d/b/a CORY 1ST CHOICE
HOME DELIVERY, JOSEPH CORY HOLDINGS, LLC OF
NEW YORK d/b/a CORY 1ST CHOICE HOME DELIVERY,
CJC TRUCKING CORP., EDGAR PEREZ, XYZ
CORPORATIONS 1-99 (FICTITIOUS ENTITIES) and JOHN
DOE 1-99 (FICTITIOUS PERSONS),

**COLLECTIVE ACTION
UNDER 29 U.S.C. § 216(b)
and RULE 23 CLASS
ACTION**

Defendants,
-----X

ALBER SAMAME (“Plaintiff”), by and through his attorneys, FRANK & ASSOCIATES, P.C., brings this Complaint against Defendants JOSEPH CORY HOLDINGS LLC d/b/a CORY 1ST CHOICE HOME DELIVERY, JOSEPH CORY HOLDINGS, LLC OF NEW YORK d/b/a CORY 1ST CHOICE HOME DELIVERY, CJC TRUCKING CORP., EDGAR PEREZ, XYZ CORPORATIONS 1-99 (FICTITIOUS ENTITIES) and JOHN DOE 1-99 (FICTITIOUS PERSONS) (collectively, “Defendants”), and respectfully alleges as follows:

INTRODUCTION

1. Plaintiff alleges that Defendants violated the Fair Labor Standards Act (“FLSA”), as amended, 29 U.S.C. §§ 201, *et seq.*, and that he is entitled to recover from Defendants: (a) unpaid overtime compensation, (b) liquidated damages, (c) pre-judgment and post-judgment interest and (d) attorneys’ fees and costs.

2. Plaintiff further alleges that, pursuant to the New York Labor Law (“NYLL”), he is entitled to recover from Defendants: (a) unpaid overtime compensation, (b) unpaid minimum wages, (c) liquidated damages and civil penalties pursuant to the New York Labor Law and the New York State Wage Theft Prevention Act; (d) pre-judgment and post-judgment interest; and (d) attorneys’ fees and costs.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over all federal law claims pursuant to 29 U.S.C. § 216(b), 28 U.S.C. § 1331 and supplemental jurisdiction over all state law claims pursuant to 28 U.S.C. § 1367.

4. Venue is proper in the Eastern District of New York pursuant to 28 U.S.C. § 1391 because the events or omissions giving rise to the claim for unlawful employment practices occurred in Suffolk County, New York.

PARTIES

5. Plaintiff is a resident of the State of New York who resides in the County of Suffolk.

6. At all times relevant to the Complaint, Plaintiff was an “employee” within the meaning of 29 U.S.C. § 203(e) and NYLL § 190(2).

7. Upon information and belief, Defendants Joseph Cory Holdings LLC and Joseph Cory Holdings, LLC of New York, both doing business as Cory 1st Choice Home Delivery, (collectively “Cory”) were and still are registered foreign limited liability companies, incorporated under the laws of the State of Delaware, with a primary place of business at 150 Meadowlands Parkway, Secaucus, New Jersey 07094.

8. At all times relevant to the Complaint, Defendant Cory was an “employer” within the meaning of 29 U.S.C. § 203(d) and NYLL § 190(3).

9. Upon information and belief, Defendant CJC Trucking Corp. (“CJC”) was and still is a domestic business corporation, incorporated under the laws of the State of New York, with a primary place of business at 617 Southern Parkway, Uniondale, NY 11553.

10. At all times relevant to the Complaint, CJC was an “employer” within the meaning of 29 U.S.C. § 203(d) and NYLL § 190(3).

11. Defendant Edgar Perez (“Perez”) owns and operates CJC.

12. Defendant Perez has the authority to direct the work of employees, hire and fire employees, determine employee compensation and make payroll decisions for Defendant CJC.

13. At all times relevant to the Complaint, Defendant Perez was an “employer” within the meaning of 29 U.S.C. § 203(d) and NYLL § 190(3).

14. Upon information and belief, Defendants XYZ Corporations 1-99 (Fictitious Entities) are corporations which employ one or more members of the proposed collective and proposed class.

15. Upon information and belief, Defendants John Doe 1-99 (Fictitious Persons) own and operate Defendants XYZ Corporations 1-99 (Fictitious Entities) and have the authority to hire and fire employees, determine employee compensation and make payroll decisions for Defendants XYZ Corporation 1-99 (Fictitious Entities).

16. At all times relevant to the Complaint, Defendants were and are “an enterprise engaged in interstate commerce” within the meaning of the FLSA.

17. At all times relevant to the Complaint, Defendants have and have had employees engaged in the commerce or in the production of goods for commerce and handling, selling or otherwise working on goods or materials that have been moved in or produced for commerce by any person.

18. At all times relevant to the Complaint, Defendants, jointly, have and have had annual gross volume of sales in excess of \$500,000.

FACTUAL ALLEGATIONS

19. Plaintiff was jointly employed by Defendants Cory, CJC and Perez from July 2015 to June 30, 2017 as a furniture deliveryman.

20. Plaintiff worked for Defendants at a warehouse located in Melville, New York, which is owned and operated by Defendant Cory. Defendant Cory uses this warehouse to fulfill its contract with Bob's Discount Furniture ("Bob's") to deliver Bob's products to its customers throughout Nassau, Suffolk and Queens counties.

21. In order to deliver Bob's products, Defendant Cory employs a fleet of between forty-three (43) and forty-six (46) delivery trucks at its warehouse in Melville. Each of these trucks is owned by corporations of varying sizes, which contract their services to Cory (the XYZ Defendants). This includes Plaintiff's direct employer, Defendant CJC, which owns two delivery trucks.

22. Defendant CJC does not contract its services to anyone else and provides its services solely to Defendant Cory. Upon information and belief, the XYZ Defendants also provide their services solely to Defendant Cory.

23. Indeed, upon information and belief, Defendant Cory requires Defendant CJC and the XYZ Defendants to work solely for it and not to provide their services to any other company or individual.

24. Defendant Cory employs no trucks of its own and is wholly reliant on Defendant CJC and the XYZ Defendants to fulfill its contract to deliver Bob's products.

25. Defendant Cory also exercises significant control over the deliveries and the terms and conditions of employment of the deliverymen,¹ most particularly their working hours.

26. The deliverymen are required to arrive at 6:00 AM each day by the warehouse manager, Mike (Last Name Unknown), an employee of Defendant Cory. Mike (Last Name Unknown) additionally provides the deliverymen with the schedule of deliveries they are required to make each day.

27. Pursuant to the schedule provided by Defendant Cory, the deliverymen deliver Bob's products to its customers, without any break, until approximately 5:00 PM each day. If any issues arise during their deliveries, the deliverymen are required to contact Defendant Cory's employees, David (Last Name Unknown) or David (Last Name Unknown), who provide them with instructions on how to resolve the issue.

28. Additionally, if an issue prevented a particular truck from completing its deliveries, Defendant Cory would send another truck, which may or may not be owned by the same company, to complete the route.

29. Upon completion of their deliveries around 5:00 PM, the deliverymen return to the warehouse to prepare for the next day. After returning to the warehouse, the deliverymen clean the truck and are given the schedule of deliveries for the following day by the warehouse manager, Mike (Last Name Unknown). The deliverymen then load the truck with the furniture set forth on schedule given to them by Mike (Last Name Unknown). Due to this additional work, the deliverymen leave between 6:00 PM and 7:00 PM each day.

30. The deliverymen regularly work five days per week with most working, like Plaintiff, Tuesday through Saturday. As detailed above, the deliverymen work, without any break,

¹ Unless otherwise indicated, any reference to "the deliverymen" includes Plaintiff.

from 6:00 AM to 6:00 PM or 7:00 PM each day for a total of approximately sixty (60) to sixty-five (65) hours per week.

31. The deliverymen, regardless of which company directly employs them, are paid a flat rate of \$100 per day for their work. The only difference amongst the deliverymen is that some were paid in cash, while the majority, including Plaintiff, are paid by check. Irrespective of the manner of payment, this daily salary did not vary at all based on the number of hours worked.

32. Defendants failed to compensate the deliverymen at a rate of at least one and one-half times their regular hourly rate for hours worked in excess of forty (40) per week.

33. Defendants also willfully disregarded and purposefully evaded record keeping requirements of the NYLL by failing to maintain accurate records of the hours worked by the deliverymen each week.

34. Defendants did not provide the deliverymen with a complete, true and accurate wage statement including their hourly rate, the overtime hours worked, their accurate gross income, accurate deductions from pay and net wages as required by law.

35. Defendants did not provide the deliverymen with written notice, in English or in their primary language, where applicable, of their rate of pay, the basis thereof, any allowances claimed by the employer, the employer's regular pay day, the name of the employer, including any "doing business names," the employer's address and the employer's telephone number at the time of their hire.

COLLECTIVE ACTION CLAIMS

36. Plaintiff brings his FLSA claim as a collective action, pursuant to 29 U.S.C. § 216(b), on behalf of all similarly situated non-exempt persons who are or were employed by Defendants within three years from the filing of this Complaint ("FLSA Collective").

37. At all relevant times, Plaintiff, and other members of the FLSA Collective, have had substantially similar job requirements and pay provisions.

38. At all relevant times, Plaintiff and other members of the FLSA Collective, have been subject to Defendants' common practices, policies, programs, procedures, protocols and plans of willfully failing and refusing to pay them at least one and one-half times their regular rate for every hour of work in excess of forty (40) hours per workweek.

39. The claims of Plaintiff stated herein are similar to those of the Defendants' other employees.

40. The FLSA Collective is readily identifiable and locatable through the use of Defendants' records. The FLSA Collective should be notified of and allowed to opt-in to this action pursuant to 29 U.S.C. § 216(b). Unless the Court promptly issues such a notice the FLSA Collective, who have been unlawfully deprived of minimum wage and overtime pay in violation of the FLSA, will be unable to secure compensation to which they are entitled, and which has been unlawfully withheld by Defendants.

CLASS ACTION ALLEGATIONS

41. Plaintiff brings his NYLL claims as a class action pursuant to Federal Rule of Civil Procedure 23 on behalf of all similarly situated non-exempt employees of Defendants who were: (1) not paid overtime for all hours worked in excess of forty (40) each workweek, (2) were not paid minimum wage for all hours worked, (3) not given accurate wage statements and (4) not provided proper notice of their pay rate.

42. Plaintiff is a member of the Class he seeks to represent.

43. Plaintiff reserves the right to amend the Class definition based on discovery.

Efficiency of Class Prosecution of Class Claims

44. Upon information and belief, there are many current and former employees who are similarly situated to Plaintiff, who have been underpaid in violation of the FLSA and NYLL. The named Plaintiff is a representative of those other workers and is acting on behalf of the Defendants' current and former employees' interests as well as his own interest in bringing this action.

45. Certification of this class is the most efficient and economical means of resolving questions of law and fact that are common to Plaintiff and members of the proposed class.

46. Plaintiff's individual claims and their resolution will resolve the common questions of the proposed class.

47. A class action is superior to other available methods for the fair and efficient adjudication of this litigation, particularly in the context of a wage and hour litigation like the present action, where individual plaintiffs may lack the financial resources to vigorously prosecute a lawsuit in federal court against a corporate defendant. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently and without the unnecessary duplication of the efforts and expense that numerous individual actions would engender. The adjudication of individual litigation claims would result in a great expenditure of court and public resources. However, treating the claims as a class action would result in a significant savings of these costs. The members of the Rule 23 Class have been damaged and are entitled to recovery as a result of Defendants' common and uniform policies, practices and procedures. Although the relative damages suffered by the individual Rule 23 Class are not *de minimis*, such damages are small compared to the expense and burden of individual prosecution of this litigation. Additionally, class treatment is superior

because it will obviate the need for unduly duplicative litigation that might result in inconsistent judgments about Defendants' practices.

Numerosity and Impracticability of Joinder

48. The persons in the Rule 23 Class identified above are so numerous that joinder of all members is impracticable.

49. The Rule 23 Class Members are readily ascertainable. For the purposes of notice and other purposes related to this action, their names and addresses are readily available from Defendants.

50. Unless the Court promptly issues such notice, persons similarly situated to Plaintiff, who have been unlawfully deprived of overtime pay in violation of the FLSA and NYLL and additionally deprived of prevailing wages, will be unable to secure compensation to which they are entitled, and which has been unlawfully withheld from them by Defendants.

51. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing claims because doing so can harm their employment, future employment, and future efforts to secure employment. Class actions provide class members who are not named in the complaint a degree of anonymity which allows for the vindication of their rights while eliminating or reducing those risks.

Common Questions of Law and Fact

52. The adjudication of Plaintiff's claims will directly result in the adjudication of numerous questions of law and fact common to the members of the proposed class.

53. These common issues include, but are not limited to: (a) whether Defendants unlawfully failed to pay proper overtime compensation for hours worked in excess of forty (40) per week in violation of and within the meaning of the FLSA and NYLL; (b) whether Defendants

unlawfully failed to pay minimum wage under the NYLL; (c) whether Defendants have failed to keep true and accurate time records for all hours worked by Plaintiff and the Rule 23 Class; (d) the nature and extent of the Rule 23 Class-wide injury and the appropriate measure of damages for the class; and (e) whether Defendants' general practice of failing and/or refusing to pay Plaintiff and the Rule 23 Class proper compensation was done willfully or with reckless disregard of the federal and state wage and hour laws.

54. The policies, procedures, and practices implemented by Defendants were applied to all members of the proposed class.

55. The claims of Plaintiff are typical of the claims of the Rule 23 Class he seeks to represent. Plaintiffs' claims are typical of those claims which could be alleged by any member of the Rule 23 Class, and the relief sought is typical of the relief which would be sought by each member of the proposed class in separate actions.

56. Plaintiff seeks the following relief for his individual claims and for the claims of the proposed class: (1) unpaid overtime wages for all hours worked in excess of forty (40) per week at a rate of one and one-half times his regular rate of pay; (2) unpaid minimum wages for all hours worked; (3) an equal amount of liquidated damages and (4) damages for Defendants' failure to provide accurate wage statements and accurate notice of pay rate.

Adequacy of Representation

57. Plaintiff's interests are akin to those of the members of the proposed class.

58. Plaintiff is willing and able to represent the members of the proposed class and will fairly and adequately represent and protect the interest of the Rule 23 Class.

59. Plaintiff has retained counsel competent and experienced in complex class actions in labor and employment litigation for over fifty (50) years. Plaintiff's counsel can competently

litigate the individual and class claims sufficiently to satisfy Rule 23(a)(4) of the Federal Rules of Civil Procedure.

FIRST CAUSE OF ACTION
Failure to Pay Overtime in Violation of the FLSA
(On Behalf of Plaintiff and the FLSA Collective)

60. Plaintiff hereby repeats and re-alleges each and every allegation in the preceding paragraphs as if set forth fully herein.

61. Defendants required Plaintiff and other similarly situated employees to work in excess of forty (40) hours each week and willfully failed to compensate Plaintiff and other similarly situated employees for the time worked in excess of forty (40) hours each week at a rate of at least one and one-half times the greater of their regular hourly rate or the minimum wage in violation of the FLSA.

62. Defendants willfully violated the FLSA by knowingly and intentionally failing to pay Plaintiff and other similarly situated employees overtime wages.

63. Because Defendants' violations of the FLSA have been willful, a three-year statute of limitations applies pursuant to 29 U.S.C. § 255.

64. As a result of Defendants' willful and unlawful failure to pay Plaintiff and other similarly situated employees overtime wages, Plaintiff and other similarly situated employees are entitled to recover their unpaid overtime wages, liquidated damages, attorneys' fees and costs pursuant to 29 U.S.C. § 216(b).

SECOND CAUSE OF ACTION
Failure to Pay Overtime in Violation of the NYLL
(On Behalf of Plaintiff and the Rule 23 Class)

65. Plaintiff hereby repeats and re-alleges each and every allegation in the preceding paragraphs as if set forth fully herein.

66. Defendants required Plaintiff and the Rule 23 Class to work in excess of forty (40) hours each week and willfully failed to compensate Plaintiff and the Rule 23 Class for the portion of the time worked in excess of forty (40) hours each week at a rate of at least one and one-half times his regular hourly rate in violation of the NYLL.

67. Defendants willfully violated the NYLL by knowingly and intentionally failing to pay Plaintiff and the Rule 23 Class overtime wages.

68. Due to Defendants' violation of the NYLL, Plaintiff and the Rule 23 Class are entitled to recover from Defendants their unpaid overtime wages, liquidated damages, reasonable attorneys' fees and costs of this action, and pre-judgment and post-judgment interest.

THIRD CAUSE OF ACTION
Failure to Pay Minimum Wage in Violation of the NYLL
(On Behalf of Plaintiff and the Rule 23 Class)

69. Plaintiff hereby repeats and re-alleges each and every allegation in the preceding paragraphs as if set forth fully herein.

70. Defendants, in violation of NYLL § 652(1) and the supporting regulations of the New York State Department of Labor, paid Plaintiff and the Rule 23 Class less than the minimum wage.

71. Defendants willfully violated the NYLL by knowingly and intentionally failing to pay Plaintiff and the Rule 23 Class minimum wage.

72. Due to Defendants' violation of the NYLL and its supporting regulations Plaintiff and the Rule 23 Class are entitled to recover from Defendants their unpaid minimum wages, liquidated damages, reasonable attorneys' fees and costs of this action, and pre-judgment and post-judgment interest.

FOURTH CAUSE OF ACTION

**Failure to Provide Accurate Wage Statements in Violation of NYLL § 195(3)
(On Behalf of Plaintiff and the Rule 23 Class)**

73. Plaintiff hereby repeats and re-alleges each and every allegation in the preceding paragraphs as if set forth fully herein.

74. Defendants failed to provide Plaintiff and the Rule 23 Class with an accurate statement of, *inter alia*, their regular rate of pay, their overtime rate of pay, their hours worked, their regular payday, the name, address and telephone number of the employer, and other information required by NYLL §195(3).

75. Defendants violations of the NYLL and its supporting regulations entitle Plaintiff and the Rule 23 Class to recover damages of \$250 per work day, up to a maximum of \$5,000, and attorneys' fees and costs.

FIFTH CAUSE OF ACTION

**Failure to Provide Notice of Pay Rate in Violation of NYLL § 195(1)
(On Behalf of Plaintiff and the Rule 23 Class)**

76. Plaintiff hereby repeats and re-alleges each and every allegation in the preceding paragraphs as if set forth fully herein.

77. Defendants failed to provide Plaintiff and the Rule 23 Class with notice of their pay rate, the basis thereof, the employer's regular pay day, the name, address and telephone number of the employer and other information required by NYLL § 195(1).

78. Defendants' violations of the NYLL and its supporting regulations entitle Plaintiff and the Rule 23 Class to recover damages of \$50 per day, up to a maximum of \$5,000, and attorneys' fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court enter judgment in his favor and against Defendants, containing the following relief:

A. Unpaid overtime wages, minimum wages, and an additional equal amount as liquidated damages, plus interest at the statutory compounded rate of 9% per annum pursuant to New York Labor Law;

B. An award of civil penalties as a result of Defendants' violation of the New York Labor Law's notice provisions pursuant to NYLL §§ 198(1-b) and 198(1-d);

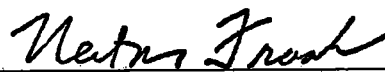
C. Issuance of a declaratory judgment that the practices complained of in this complaint are unlawful under New York Labor Law;

D. All reasonable attorneys' fees and costs incurred in prosecuting these claims; and

E. Such other relief as this Court deems just and proper.

Dated: January 9, 2018
Farmingdale, New York

FRANK & ASSOCIATES, P.C.



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Attorneys for Plaintiff

JS 44 (Rev. 11/27/17)

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.)

<p>I. (a) PLAINTIFFS Alber Samame, on behalf of himself and other similarly situated,</p> <p>(b) County of Residence of First Listed Plaintiff <u>Suffolk County</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys <i>(Firm Name, Address, and Telephone Number)</i> Frank & Associates, P.C. 500 Bi-County Boulevard, Suite 465, Farmingdale, New York 11735 (631) 756-0400</p>	<p>DEFENDANTS Please see attached Full Caption Rider</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> </thead> <tbody> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </tbody> </table>		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
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IV. NATURE OF SUIT <i>(Place an "X" in One Box Only)</i>		Click here for: Nature of Suit Code Descriptions.	
<p>CONTRACT</p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans <i>(Excludes Veterans)</i></p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p>TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p>KOREFETURE/PENALTY</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p>LABOR</p> <p><input checked="" type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Employee Retirement Income Security Act</p> <p>IMMIGRATION</p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p>BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 835 Patent - Abbreviated New Drug Application</p> <p><input type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>
<p>REAL PROPERTY</p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p>	<p>CIVIL RIGHTS</p> <p><input type="checkbox"/> 440 Other Civil Rights</p> <p><input type="checkbox"/> 441 Voting</p> <p><input type="checkbox"/> 442 Employment</p> <p><input type="checkbox"/> 443 Housing/Accommodations</p> <p><input type="checkbox"/> 445 Amer. w/Disabilities - Employment</p> <p><input type="checkbox"/> 446 Amer. w/Disabilities - Other</p> <p><input type="checkbox"/> 448 Education</p>	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <p><input type="checkbox"/> 463 Alien Detainee</p> <p><input type="checkbox"/> 510 Motions to Vacate Sentence</p> <p><input type="checkbox"/> 530 General</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p>Other:</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p> <p><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement</p>	<p>OTHER STATUTES</p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>

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 - Transfer 8 Multidistrict Litigation - Direct File

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.

Brief description of cause:
Violations of the FLSA and NYLL

VII. REQUESTED IN COMPLAINT:

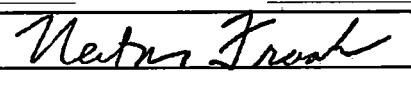
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 5,000,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):*

JUDGE _____ DOCKET NUMBER _____

DATE 01/16/2018 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Neil M. Frank, Esq., counsel for Plaintiffs, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

N/A

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? Yes No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? Yes No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes No
 - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received: N/A

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? Yes No **NOT APPLICABLE**

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: Neil M. Frank

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X

ALBER SAMAME, on behalf of himself and others similarly situated,

Plaintiff,

Case No.: 18-cv-283

-against-

FULL CAPTION RIDER

JOSEPH CORY HOLDINGS LLC d/b/a CORY 1ST CHOICE HOME DELIVERY, JOSEPH CORY HOLDINGS, LLC OF NEW YORK d/b/a CORY 1ST CHOICE HOME DELIVERY, CJJC TRUCKING CORP., EDGAR PEREZ, XYZ CORPORATIONS 1-99 (FICTITIOUS ENTITIES) and JOHN DOE 1-99 (FICTITIOUS PERSONS),

Defendants,

-----X

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

Alber Samame, on behalf of himself and others)
 similarly situated)

Plaintiff(s)

v.)

Please see attached Full Caption Rider)

Defendant(s)

Civil Action No. 18-cv-283

SUMMONS IN A CIVIL ACTION

To: (*Defendant's name and address*) Joseph Cory Holdings LLC d/b/a Cory 1st Choice Home Delivery
 C/O New York Secretary of State
 One Commerce Plaza
 99 Washington Ave
 Albany, NY 12231-0001

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:

Frank & Associates, P.C.
 500 Bi-County Boulevard, Suite 465
 Farmingdale, New York 11735

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

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 18-cv-283

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:

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X

ALBER SAMAME, on behalf of himself and others similarly situated,

Plaintiff,

Case No.: 18-cv-283

-against-

FULL CAPTION RIDER

JOSEPH CORY HOLDINGS LLC d/b/a CORY 1ST CHOICE HOME DELIVERY, JOSEPH CORY HOLDINGS, LLC OF NEW YORK d/b/a CORY 1ST CHOICE HOME DELIVERY, CJJC TRUCKING CORP., EDGAR PEREZ, XYZ CORPORATIONS 1-99 (FICTITIOUS ENTITIES) and JOHN DOE 1-99 (FICTITIOUS PERSONS),

Defendants,

-----X

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

Alber Samame, on behalf of himself and others
similarly situated

Plaintiff(s)

v.

Please see attached Full Caption Rider

Defendant(s)

Civil Action No. 18-cv-283

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Joseph Cory Holdings, LLC of New York d/b/a Cory 1st Choice Home Delivery
C/O New York Secretary of State
One Commerce Plaza
99 Washington Ave
Albany, NY 12231-0001

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:

Frank & Associates, P.C.
500 Bi-County Boulevard, Suite 465
Farmingdale, New York 11735

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

Handwritten mark or signature

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 18-cv-283

PROOF OF SERVICE

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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:

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X

ALBER SAMAME, on behalf of himself and others similarly
situated,

Plaintiff,

Case No.: 18-cv-283

-against-

FULL CAPTION RIDER

JOSEPH CORY HOLDINGS LLC d/b/a CORY 1ST CHOICE
HOME DELIVERY, JOSEPH CORY HOLDINGS, LLC OF
NEW YORK d/b/a CORY 1ST CHOICE HOME DELIVERY,
CJJC TRUCKING CORP., EDGAR PEREZ, XYZ
CORPORATIONS 1-99 (FICTITIOUS ENTITIES) and JOHN
DOE 1-99 (FICTITIOUS PERSONS),

Defendants,

-----X

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 18-cv-283

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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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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:

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X

ALBER SAMAME, on behalf of himself and others similarly situated,

Plaintiff,

Case No.: 18-cv-283

-against-

FULL CAPTION RIDER

JOSEPH CORY HOLDINGS LLC d/b/a CORY 1ST CHOICE HOME DELIVERY, JOSEPH CORY HOLDINGS, LLC OF NEW YORK d/b/a CORY 1ST CHOICE HOME DELIVERY, CIJC TRUCKING CORP., EDGAR PEREZ, XYZ CORPORATIONS 1-99 (FICTITIOUS ENTITIES) and JOHN DOE 1-99 (FICTITIOUS PERSONS),

Defendants,

-----X

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

Alber Samame, on behalf of himself and others
similarly situated

Plaintiff(s)

v.

Please see attached Full Caption Rider

Defendant(s)

Civil Action No. 18-cv-283

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Edgar Perez
617 Southern Parkway
Uniondale, New York 11553

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:

Frank & Associates, P.C.
500 Bi-County Boulevard, Suite 465
Farmingdale, New York 11735

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

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 18-cv-283

PROOF OF SERVICE

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_____ 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:

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X

ALBER SAMAME, on behalf of himself and others similarly situated,

Plaintiff,

Case No.: 18-cv-283

-against-

FULL CAPTION RIDER

JOSEPH CORY HOLDINGS LLC d/b/a CORY 1ST CHOICE HOME DELIVERY, JOSEPH CORY HOLDINGS, LLC OF NEW YORK d/b/a CORY 1ST CHOICE HOME DELIVERY, CJC TRUCKING CORP., EDGAR PEREZ, XYZ CORPORATIONS 1-99 (FICTITIOUS ENTITIES) and JOHN DOE 1-99 (FICTITIOUS PERSONS),

Defendants,

-----X

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Former Employee Hits Furniture Delivery Company with Wage and Hour Suit](#)
