

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

2017 JUN -9 PM 1:30

MOISES VAZQUEZ, on behalf of himself)
and others similarly situated.)
)
Plaintiffs,)
)
v.)
)
AF MASONRY, INC.)
)
Defendant.)
_____)

CASE NO.

8:17 CV 1362 T30 JSS

CLASS AND COLLECTIVE ACTION COMPLAINT

Plaintiff, Moises Vazquez ("Plaintiff"), on behalf of himself and others similarly situated, by and through their undersigned counsel, sue Defendant, AF Masonry, Inc. ("Defendant"), and alleges:

NATURE OF CASE

1. This is an action for unpaid overtime under the Fair Labor Standards Act, 29 U.S.C. §§ 201-216 ("FLSA") and unpaid wages under Florida Statute § 448.08.
2. The FLSA unpaid overtime claims are brought as a collective action under 29 U.S.C. § 216(b).

JURISDICTION AND VENUE

3. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1367, and 29 U.S.C. § 216(b).
4. Venue of this action properly lies in this Court pursuant to 28 U.S.C. § 1391.

PARTIES

5. Plaintiff is an individual and a citizen of the State of Florida residing in Pasco County, Florida.

TRA - 44005
\$400

6. Defendant is a corporation organized and existing under the laws of the State of Florida, with its principal place of business in Hillsborough County, Florida. Defendant provides masonry services throughout Hillsborough County, Florida and other parts of Florida.

FACTS

7. In or about October 2015, Plaintiff began employment with Defendant.

8. In or about December 2015, Plaintiff separated from employment with Defendant.

9. In or about February 2016, Plaintiff again started working as an employee of Defendant.

10. In or about September 2016, Plaintiff again separated from employment with Defendant.

11. Plaintiff voluntarily separated from employment in September 2016 because he was not paid for several days of work.

12. During the course of his employment, Plaintiff regularly worked approximately 50 to 60 hours per workweek. Upon information and belief, Plaintiff's regular rate of pay was \$15.00 per hour.

13. At all times during Plaintiff's employment with Defendant, all hours he worked in excess of 40 hours per work week were paid to him by Defendant at his regular rate and not paid at time and a half his regular rate. Instead of paying Plaintiff overtime at time and a half his regular rate, the Defendant intentionally and knowingly paid him his regular rate in cash.

14. Upon information and belief, during the three years prior to the filing of this Complaint, Defendant intentionally and knowingly paid all of its employees' overtime at their regular rate, in cash, and not at time and a half their regular rate. Upon information and belief, this

company-wide policy and practice was and is designed to save money by not paying its employees all compensation owed and by not paying certain payroll taxes.

15. As a result of result of Defendant's unlawful acts, Plaintiff has been forced to retain undersigned counsel to bring this action.

16. Any and all conditions precedent to bringing the claims herein, if any, were satisfied or waived.

FLSA COLLECTIVE PLAINTIFF ALLEGATIONS

17. The additional parties who may opt-in as plaintiffs in this action for purposes of Count I consists of any current or former non-exempt employees of Defendant who engaged in the laying and installation of bricks, masonry and other forms of manual labor for the benefit of Defendant ("FLSA Collective Action Plaintiffs").

18. Plaintiff and the FLSA Collective Action Plaintiffs were subject to common unlawful pay practices, policies, and procedures. Specifically, during the three years prior to the filing of this Complaint, Defendant intentionally and knowingly paid all of its employees' overtime at their regular rate, in cash, and not at time and a half their regular rate, in violation of the FLSA.

19. Count I is properly brought under and maintained as a collective action pursuant to 29 U.S.C. § 216(b). The FLSA Collective Plaintiffs are readily ascertainable. For purposes of notice and any other purpose related to this action, the names and addresses of the FLSA Collective Plaintiffs are or should be readily available from Defendant.

COUNT I – FLSA UNPAID OVERTIME AND MINIMUM WAGE

20. Plaintiff incorporates by reference, and as if fully restated herein, the allegations contained in Paragraphs 1- 19 of this Complaint.

21. Defendant employs more than two individuals.

22. Defendant has an annual dollar volume of sales or business being done of at least \$500,000.

23. Defendant is subject to the FLSA.

24. During Plaintiff's employment with Defendants, the Defendants were his employer, as that term is defined by the FLSA.

25. During Plaintiff's employment, he worked more than forty (40) hours per work week but was not paid any overtime as a result of the Defendants' unlawful pay practices, policies, and procedures.

26. Defendant knew that Plaintiff was not being paid for overtime hours worked.

27. During Plaintiff's last month of employment, he was not paid at all for several days of work.

28. Defendant's failure to pay overtime and for several days of work was intentional.

29. As a direct and legal consequence, Plaintiff has suffered damages.

WHEREFORE, Plaintiff respectfully requests the following:

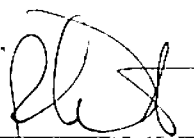
- a. Enter judgment in his favor for unpaid overtime and minimum wages under the FLSA;
- b. Award the full amount of unpaid overtime and minimum wages, liquidated damages, and pre-judgment interest;
- c. Award attorneys' fees and costs;
- d. Enter equitable relief mandating the cessation of the unlawful pay practices, policies and procedures; and
- e. Grant any other relief this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury on all issues so triable.

Dated: June 9, 2017

Respectfully submitted,

/s/ Ricardo A. Duarte 

RICARDO A. DUARTE

Florida Bar Number 88614

Email: rduarte@cantrellduarte.com

WILLIAM J. CANTRELL

Florida Bar Number 0103254

Email: wcantrell@cantrellduarte.com

CANTRELL DUARTE, PLLC

401 East Jackson Street, Suite 2340

Tampa, Florida 33602

Telephone: 813.867.0115

Faeximile: 813.867.0116

Attorneys for Plaintiff

JS-44 (Rev 09/10)

UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF FLORIDA

CIVIL COVER SHEET

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law.

Plaintiff(s):

First Listed Plaintiff:
Moises Vazquez ;
County of Residence: Outside This District

Defendant(s):

First Listed Defendant:
AF Masonry, Inc. ;
County of Residence: Outside This District

County Where Claim For Relief Arose: Hillsborough County

Plaintiff's Attorney(s):

Ricardo Duarte (Moises Vazquez)
Cantrell Duarte, PLLC
401 E. Jackson St. Ste. 2340
Tampa, Florida 33602
Phone: 813-867-0115
Fax: 813-867-0116
Email: rduarte@cantrellduarte.com

Defendant's Attorney(s):

William Cantrell
Cantrell Duarte, PLLC
401 E. Jackson St. Ste. 2340
Tampa, Florida 33602
Phone: 813-867-0115
Fax: 813-867-0116
Email: wcantrell@cantrellduarte.com

Basis of Jurisdiction: 3. Federal Question (U.S. not a party)

Citizenship of Principal Parties (Diversity Cases Only)

Plaintiff: N/A

Defendant: N/A

Origin: 1. Original Proceeding

Nature of Suit: 710 Fair Labor Standards Act

FILED
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CLERK OF DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

Cause of Action: 29 U.S.C. §§ 201-216 - Fair Labor Standards Act Overtime Violations

Requested in Complaint

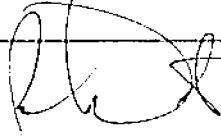
Class Action: Not filed as a Class Action

Monetary Demand (in Thousands):

Jury Demand: Yes

Related Cases: Is NOT a refiling of a previously dismissed action

Signature: Ricardo Duarte



Date: 6/9/17

If any of this information is incorrect, please close this window and go back to the Civil Cover Sheet Input form to make the correction and generate the updated JS-44. Once corrected, print this form, sign and date it, and submit it with your new civil action.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Stacked Against AF Masonry Over Unpaid Wages](#)
