

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ROBERT LEE WIGGINS, in his individual capacity and on  
behalf of others similarly situated,

*Plaintiffs,*

Case No.: **16-CV-5959**

-against-

**COMPLAINT**

THE GARDEN CITY GOLF CLUB a/k/a GARDEN CITY  
MEN'S CLUB d/b/a GARDEN CITY GC

*Jury Trial Demanded*

*Defendant.*  
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Plaintiff Robert Lee Wiggins ("Plaintiff"), on behalf of himself and all others similarly situated employees of Defendant, by and through his attorneys, Frank & Associates, P.C., as and for his Complaint in this action against Defendant, The Garden City Golf Club a/k/a Garden City Men's Club d/b/a Garden City GC ("Defendant"), hereby alleges as follows:

**INTRODUCTION**

1. Plaintiff and other similarly situated golf caddies bring this action to redress past wrongs and seek future protections. The golf caddies work exclusively for Defendant's golf club during the season from March to December. This action is brought as collective actions pursuant to Rule 23a of the FRCP.
2. Throughout their employment, golf caddies have been classified as neither employees nor independent contractors, and as a result have been deprived of basic rights guaranteed to all employees under Federal, State and Local Laws.
3. The golf caddies have been disenfranchised, as Defendants have deprived them of basic statutory protective benefits required under Federal and State Laws. For example, Defendant does not make contributions for statutory benefits required by Federal Law such as Social

Security and Medicare, or State Unemployment Insurance. Furthermore, golf caddies are not protected under federal, state, and local laws against discrimination or for Workers' Compensation Insurance.

4. Plaintiff, and about twenty-five (25) to seventy (70) other similarly situated golf caddies employed by Defendant, routinely work more than forty (40) hours each work week. They are not paid any wages at all by Defendant, and receive neither the minimum wage required by Federal and State law, or overtime wages, when they work more than forty (40) hours a week – which they do on a regular basis.
5. The golf caddies report to work each day at a regular starting time. They are managed and supervised by Defendant's Caddy Master. They receive assignments and duties and are subjected to discipline by the Caddy Master. In all aspects of their employment, the golf caddies are employees, but they are treated as one would robots who require only regular programming daily "turn on" and maintenance.
6. In light of these violations, Plaintiff, and others similarly situated, bring this action to recover unpaid wages pursuant to the Fair Labor Standards Act of 1938, 29 U.S.C. § 201, *et. seq.* (hereinafter "FLSA") and under the common law for such damages as may be determined for negligent or intentional infliction of emotional distress, unjust enrichment and the deprivation of employment benefits required by Federal and New York State Law.

#### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over this action pursuant to the FLSA, 29 U.S.C. § 201, *et. seq.* and as a federal question pursuant to 28 U.S.C. § 1331.
8. Venue is proper in the United States District Court, Eastern District of New York, pursuant to 28 U.S.C. § 1391.

## **PARTIES**

9. Plaintiff and most members of the class are residents of the State of New York, residing in the County of Nassau.
10. Plaintiff and other similarly situated caddies work or worked at Defendant's golf course located at 206 Stewart Avenue, Garden City, New York 11530.
11. A golf caddies job duties include carrying golf bags with clubs and golf balls weighing up to seventy (70) pounds along the eighteen (18) hole golf course up to two rounds per day, retrieving golf balls, and identifying players' individual golf balls on the course.
12. At all times relevant, Plaintiff and other similarly situated golf caddies are "employees" within the meaning of 29 U.S.C. § 203(e).
13. Upon information and belief, Defendant is a domestic, not-for-profit corporation with its principal place of business located at 315 Stewart Avenue, Garden City, New York, County of Nassau.
14. Upon information and belief, at all times relevant, Defendant had annual gross revenues in excess of \$500,000 and engaged in commerce within the meaning of the FLSA § 206(a) and § 207(a).
15. Defendant is an "employer" within the meaning of § 203(d) of the FLSA, 29 U.S.C. § 203(d).

## **FACTUAL ALLEGATIONS**

16. Plaintiff Wiggins worked exclusively at Defendant's golf club as a golf caddy for eighteen (18) years from 1997 to 2015.

17. As a golf caddy, Plaintiff was responsible for carrying golf clubs weighing up to seventy (70) pounds, finding and retrieving golf balls, and identifying players' golf balls located on the course.
18. At all relevant times, Supervisor George Ozzollete ("Ozzollete") was the Caddy Master and was directly responsible for the regular supervision and oversight of the work performed by the caddies.
19. Ozzollete oversees the work of between twenty-five (25) and seventy (70) golf caddies on a single day.
20. Defendant's golf course is open six (6) days a week from 7:30 am to closing time, which time varies depending on factors, such as available light, weather conditions and the number of golfers playing the course at dusk.
21. Golf caddies report to work at Defendant's clubhouse (the "Caddy Hut") to wait for Ozzollete to assign them to assist a specific golfer or golfers in a group for a round on the 18-hole golf course.
22. Golf caddies typically work one or two rounds per day. During each round, the caddy is able to carry either one or two bags.
23. A round of golf may typically last up to four and a half (4 1/2) hours. After finishing an "early" round, as part of regular duties, a caddy will clean the member's golf clubs and return to the Caddy Hut to wait for a new assignment.
24. Both before and after a round, while waiting for a new assignment, Ozzollete instructs and directs the golf caddies to perform miscellaneous tasks, such as transporting bags from members' cars to the clubhouse or moving caddy carts around the premises as is necessary to accommodate the members.

25. A single round, including the cleaning of clubs and performing miscellaneous tasks while waiting for a new assignment, takes up to five (5) hours.
26. On days when the golf caddies work two rounds, they work up to eleven (11) hours. Plaintiff estimates that he worked two rounds per day at least three (3) days per week.
27. Ozzollete controls the schedule of each caddy, pairing them with golfers at his discretion. Those caddies report to work and are paired with a golfer at or about 7:30 am, are more likely to work two rounds, and can carry a total of two to four bags each workday.
28. Defendant requires caddies to wear a specific uniform in the performance of their duties. Caddies must wear beige khakis, a white collared shirt, white sneakers, and a beige hat. The hat and shirt display the club's logo.
29. While the golf caddies are permitted to purchase the khakis and sneakers at a store of their choosing, the shirt and hat adorned with the club logo must be purchased from Defendant.
30. Defendant does not require the golf caddies to purchase a designated number of shirts or hats, but does mandate that the caddies wear clean garments each day, thus requiring caddies to purchase more than one shirt and hat from Defendant.
31. Defendant instructs its members on how much to pay caddies for a round. The pay scale is currently \$80.00 per bag plus a discretionary gratuity of up to \$20.00 or more per round.
32. Throughout the year, the Club hosts numerous golf tournaments, often lasting an entire weekend, Friday through Sunday, or Thursday to Saturday.
33. When there are tournaments, the caddies report to Ozzollete at normal hours, but must abide by a stricter work schedule and more defined policies and procedures.
34. Thus, on those occasions, if a caddy is unable to report to work when scheduled, he must advise Ozzollete in advance.

35. On tournament days, Plaintiff and the other caddie's hours would often exceed ten (10) hours per day, typically associated with two rounds of golf, and their work would continue until all golfers had completed their rounds, depending on light conditions.
36. On other days, if a caddy required a personal day, the request had to be made to Ozzollete in advance. When a caddy is late or absent, without warning or explanation, Ozzollete often withheld rounds from the caddy the following work day.
37. Also, as necessary, Ozzollete will assign golf caddies to Cherry Valley Club, another private golf club in Garden City, to help with caddy services.
38. In sum, the golf caddies provide golf-related services to Defendant's members, which are integrated and essential to allow Defendant's normal golf operations to proceed.
39. At all times relevant, Defendant failed to keep records of the hours worked each day or week or to compensate the golf caddies for their hours of work. Further, Defendant willfully failed to compensate the caddies for overtime hours they regularly worked in excess of forty (40) hours per week, at a rate of at least one and one-half times the mandated minimum wage.
40. Caddies did not receive notification about their annual earnings in the form of a Federal W-2 or even a 1099, and as a result the Federal and State governments were deprived of the revenues and other contributions required as a result of employment.
41. Contributions are not made on behalf of caddies for Social Security, Medicare or Unemployment Insurance and the caddies are deprived of the benefits of those mandated Federal and State benefit programs.
42. Caddies are not covered by insurance coverage for accidents which occur on or off the job, in the form of Workers' Compensation or Disability benefits insurance coverages required by New York State law.

43. Defendant willfully disregarded and purposely evaded all record keeping employment requirements of various laws, including but not limited to the FLSA, by failing to maintain accurate time and payroll records.

**FEDERAL RULE OF CIVIL PROCEDURE**  
**RULE 23 – CLASS ACTION ALLEGATIONS**

44. Plaintiff alleges and incorporates by reference all allegations in all preceding paragraphs.

45. Plaintiff represents a class consisting of all golf caddies employed by Defendant from 2013 to the date of judgment. Plaintiff and the members of the proposed class have been subjected to the same unlawful practices that result from failing to be classified as employees.

46. Plaintiff brings this claim on behalf of himself and a class of persons under Rule 23 of the Federal Rules of Civil Procedure consisting of all golf caddies who work or have worked for Defendant in the three (3) year period preceding the filing of the Complaint, and (1) did not receive minimum wage or overtime wages provided for under the FLSA, and (2) suffered emotional distress on the basis of Defendant's failure to provide mandated federal benefits of employment associated with the caddies' status as employees of Defendant.

47. Plaintiff brings this action seeking minimum and overtime wages for golf caddies who, as a result of Defendant's willful conduct, were classified neither as employees or independent contractors during the course of their employment.

48. Plaintiff additionally seeks monetary damages arising from Defendant's conduct in failing to provide Social Security, Medicare and Workers' Compensation insurance coverage for its caddies.

**A. Class Definition**

- 49. The proposed Rule 23 Class consists of all golf caddies employed by Defendant from 2013 until the date of judgment. Upon information and belief, there are approximately up to fifty (50) members of the proposed class.
- 50. Plaintiff is a member of the Class he seeks to represent.
- 51. Defendant's unlawful conduct as described above persists to this day.
- 52. Plaintiff reserves the right to amend the Class definition based on discovery.

**B. Efficiency of Class Prosecution of Class Claims**

- 53. Certification of this class of golf caddies similarly situated to Plaintiff is the most efficient and economical means for resolving the questions of law and fact that are common to Plaintiff and members of the proposed class.
- 54. Plaintiff's individual claims and their resolution will resolve the common questions of the proposed class.
- 55. Plaintiff seeks remedies to eliminate Defendant's willful violation of the FLSA and to recover unpaid minimum wage and overtime wages rightfully earned and due to the members of the proposed class.
- 56. Plaintiff additionally seeks to eliminate Defendant's unlawful practices which led to the denial of mandated federal benefits of employment and thereby caused Plaintiff and members of the proposed class to suffer severe mental and emotional distress.
- 57. Plaintiff has standing to seek such relief because of the effect Defendant's conduct has had on him individually and on the golf caddies generally. These injuries are redressable through systemic relief, such as equitable and injunctive relief, as well as other relief as this Court sees fit.



58. To obtain relief on behalf of both the Plaintiff and the members of the proposed class, Plaintiff will first establish that the golf caddies were employees of Defendant. Plaintiff will then establish that the Defendant's unlawful policies and practices harmed Plaintiff and the members of the proposed class. Absent class certification, a large number of similarly situated persons will be forced to prosecute their common claims in multiple forums simultaneously, leading to inefficient use of judicial resources and the unnecessary duplication of efforts and expense that numerous individual actions engender.
59. A class action is superior to other available methods for the fair and efficient adjudication of this litigation, particularly in the context of the wage and hour portion of this litigation. The proposed members of the class have been damaged and are entitled to recovery as a result of Defendant's common and uniform policies, practices, and procedures.

#### **C. Numerosity and Impracticability of Joinder**

60. The proposed class that Plaintiff seeks to represent is so numerous that joinder of all members is impracticable.
61. The precise number of persons eligible for the class is unknown, but such information is readily ascertainable from Defendant. Upon information and belief, there are up to fifty (50) similarly situated individuals in the class.
62. Current employees may fear to assert their rights out of fear of direct or indirect retaliation. Former employees may be 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.

#### **D. Common Questions of Law and Fact**

63. 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.
64. Those common issues include; (i) whether Defendant misclassified the members of the proposed class by failing to treat them as employees; (ii) whether Defendant's conduct was willful; (iii) whether Defendant failed to pay the members of the proposed class minimum wage in violation of the FLSA; (iv) whether Defendant failed to pay the members of the proposed class overtime wages at one and one-half (1.5) times their hourly wage rate for all hours worked over forty (40) hours per week; (v) whether Defendant's unlawful conduct of withholding insurance coverage constituted intentional infliction of emotional distress; and (vi) whether Defendant was unjustly enriched.
65. The policies, procedures, and practices implemented by Defendant were applied to all members of the proposed class.
66. The common issues of law and fact affecting the proposed members of the class predominate over any issues affecting solely Plaintiff.
67. Although the relative damages suffered by individual class members are not *de minimis*, such damages are small compared to the expense and burden of individual prosecution of this litigation. In addition, class treatment is superior because it will obviate the need for unduly duplicative litigation that might result in inconsistent judgments regarding Defendant's practices.

#### **E. Typicality of Claims and Relief Sought**

68. The claims of Plaintiff are typical of the claims of the proposed class he seeks to represent. Plaintiff's claims are typical of those claims which could be alleged by any member of the

proposed class, and the relief sought is typical of the relief which would be sought by each member of the proposed class in separate actions.

69. Similar to the members of the proposed class, Plaintiff is a golf caddy working exclusively for Defendant.
70. All of the members of the proposed class were subject to Defendant's failure to pay minimum and overtime wages in violation of the FLSA and were thus treated in the same and similar ways.
71. Similarly, all of the members of the proposed class were deprived of mandated federal benefits of employment, such as insurance coverage, associated with their status as employees of Defendant.
72. The relief necessary to remedy the claims of Plaintiff is the same as that necessary to remedy the claims of the proposed class members.
73. Plaintiff seeks the following relief for his individual claims and for the claims of the members of the proposed class: (1) unpaid wages for all hours worked; (2) unpaid overtime wages for all hours worked in excess of forty (40) hours per week at a rate of one and one-half times the minimum wage; (3) an equal amount of liquidated damages; (4) damages for intentional infliction of emotional distress; and (5) damages for unjust enrichment.

#### **F. Adequacy of Representation**

74. Plaintiff's interests are akin to those of the members of the proposed class. Plaintiff seeks to remedy Defendant's FLSA violations of failing to pay its employees minimum and overtime wages and Defendant's unlawful conduct of not providing mandated federal benefits of employment to its employees.

75. Plaintiff is willing and able to represent the members of the proposed class fairly and adequately since he was a member of the class for more than eighteen (18) years.

76. Plaintiff has retained counsel competent and experienced in complex class actions and in labor and employment litigation having engaged in 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**  
**FOR FAILURE TO PAY MINIMUM WAGE**  
**IN VIOLATION OF THE FAIR LABOR STANDARDS ACT**

77. Plaintiff alleges and incorporates by reference all allegations in all preceding paragraphs.

78. Defendant willfully failed to compensate Plaintiff and other similarly situated individuals by not paying the minimum wage for hours worked in violation of the FLSA.

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

80. As a result of Defendant's unlawful acts, Plaintiff and other similarly situated individuals have been deprived legally required compensation and are entitled to recovery of such amounts, liquidated damages, attorneys' fees and costs pursuant to 29 U.S.C. § 216(b).

**SECOND CAUSE OF ACTION**  
**FOR FAILURE TO PAY OVERTIME WAGES**  
**IN VIOLATION OF THE FAIR LABOR STANDARDS ACT**

81. Plaintiff alleges and incorporates by reference all allegations in all preceding paragraphs.

82. Defendant willfully failed to compensate Plaintiff and other similarly situated individuals by failing to pay overtime wages for all hours worked in excess of forty (40) hours per week at a rate of at least one and one-half times their regular hourly rate, in violation of the FLSA.

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

84. As a result of Defendant's unlawful acts, Plaintiff and other similarly situated individuals have been deprived of their overtime compensation and are entitled to recovery of such amounts, liquidated damages, attorneys' fees and costs pursuant to 29 U.S.C. § 216(b).

**THIRD CAUSE OF ACTION**  
**FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

85. Plaintiff alleges and incorporates by reference all allegations in all preceding paragraphs.

86. Defendant's conduct towards Plaintiff and members of the proposed class was intentional, reckless, extreme, and outrageous, and caused Plaintiff and members of the proposed class to suffer severe emotional distress.

87. As a result of Defendant's conduct, Plaintiff and other similarly situated individuals suffered mental and emotional distress, including, but not limited to, stress and anxiety, and are entitled to an award of monetary damages and other relief.

**FOURTH CAUSE OF ACTION**  
**FOR UNJUST ENRICHMENT FOR DEPRIVATION OF BENEFITS**

88. Plaintiff alleges and incorporates by reference all allegations in all preceding paragraphs.

89. Defendant failed to make contributions and deduct for statutory benefits required by law such as Social Security and Medicare benefits.

90. As a result of Defendant's conduct, Defendant retained substantial benefits and has been unjustly enriched and Plaintiff and members of the proposed class are entitled to an award of monetary damages and other relief.

**DEMAND FOR A TRIAL BY JURY**

91. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all questions of fact raised by the Complaint.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for the following relief:


- (i) Certification of this case as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure;
- (ii) Designation of Plaintiff as a representative of the Rule 23 Class, and counsel of record as Class Counsel;
- (iii) Award Plaintiff and other similarly situated individuals unpaid wages pursuant to 29 U.S.C. § 201 *et. seq.* and the supporting United States Department of Labor regulations, plus an equal amount of liquidated damages pursuant to 29 U.S.C. § 216(b);
- (iv) Award Plaintiff and other similarly situated individuals overtime wages pursuant to 29 U.S.C. § 201 *et. seq.* and the supporting United States Department of Labor regulations, plus an equal amount of liquidated damages pursuant to 29 U.S.C. § 216(b);
- (v) Compensatory damages;
- (vi) Issuance of a declaratory judgment that the practices complained of in this Complaint are unlawful under the aforementioned statutes;

- (vii) All attorneys' fees and costs incurred in prosecuting these claims;
- (viii) Such other relief as this Court deems just and proper.

Dated: Farmingdale, New York  
October 27, 2016

**FRANK & ASSOCIATES, P.C.**

*Attorneys for Plaintiff*



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JS 44 (Rev. 07/16)

### 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><b>I. (a) PLAINTIFFS</b> Robert Lee Wiggins, in his individual capacity and on behalf of others similarly situated,</p> <p><b>(b)</b> County of Residence of First Listed Plaintiff <u>Nassau County</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p><b>(c)</b> Attorneys <i>(Firm Name, Address, and Telephone Number)</i> Frank &amp; Associates, P.C. 500 Bi-County Boulevard, Suite 465, Farmingdale, New York 11735 (631) 756-0400</p>	<p><b>DEFENDANTS</b> The Garden City Golf Club a/k/a Garden City Men's Club d/b/a Garden City GC</p> <p>County of Residence of First Listed Defendant <u>Nassau County</u> <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><b>II. BASIS OF JURISDICTION</b> <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:47%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	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>	
<p><b>CONTRACT</b></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 &amp; 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><b>TORTS</b></p> <p><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel &amp; 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><b>PERSONAL INJURY</b></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><b>PERSONAL PROPERTY</b></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><b>REAL PROPERTY</b></p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent Lease &amp; 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><b>FORFEITURE/PENALTY</b></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><b>LABOR</b></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><b>IMMIGRATION</b></p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>
<p><b>CIVIL RIGHTS</b></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><b>PRISONER PETITIONS</b></p> <p><b>Habeas Corpus:</b></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><b>Other:</b></p> <p><input type="checkbox"/> 540 Mandamus &amp; 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><b>BANKRUPTCY</b></p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><b>PROPERTY RIGHTS</b></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p><b>SOCIAL SECURITY</b></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><b>FEDERAL TAX SUITS</b></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><b>OTHER STATUTES</b></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:  
Several Violations of the Fair Labor Standards Act

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    **DEMAND \$** 1,000,000.00    CHECK YES only if demanded in complaint: **JURY DEMAND:**  Yes     No

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

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE 10/27/2016    SIGNATURE OF ATTORNEY OF RECORD *Neeta Frank*

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? 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
  - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? YES

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? N/A

(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

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

**UNITED STATES DISTRICT COURT**

for the

Eastern District of New York

Robert Lee Wiggins, in his individual capacity and on behalf of others similarly situated

\_\_\_\_\_  
*Plaintiff(s)*

v.

The Garden City Golf Club a/k/a Garden City Men's Club d/b/a Garden City GC

\_\_\_\_\_  
*Defendant(s)*

Civil Action No. **16-CV-5959**

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)* The Garden City Golf Club a/k/a Garden City Men's Club d/b/a Garden City GC  
C/O New York Secretary of State  
One Commerce Plaza  
99 Washington Avenue  
Albany, New York 12231

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.

**DOUGLAS C. PALMER**  
*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. \_\_\_\_\_

**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:

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Caddies File FLSA Class Action Against Garden City Golf Club](#)

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