

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF THE DISTRICT OF COLUMBIA**

TOMAS ALVAREZ
10616 Hockberry Way
Beltsville, MD 20705

and

ERIKA AQUINO
2020 Lewisdale Drive
Hyattsville, MD 20783,

*On Behalf of Themselves and All Others
Similarly Situated,*

Plaintiffs,

v.

CAPITOL DRYWALL, INC.
7871 Beechcraft Avenue, Suite 100,
Gaithersburg, MD 20879,

EAST COAST DEVELOPERS, LLC
18219-D Flower Hill Way
Gaithersburg, MD 20789

and

GABRIEL MONTECINOS
7429 Rosewood Manor Lane
Gaithersburg, MD 20882,

Defendants.

Case No. [_____]

Collective Action Complaint

COLLECTIVE ACTION COMPLAINT

Plaintiffs Tomas Alvarez (“Mr. Alvarez”) and Erika Aquino (“Ms. Aquino”), by and through undersigned counsel, on behalf of themselves and all others similarly situated, bring this

Collective Action Complaint against defendants Capitol Drywall, Inc. (“Capitol Drywall”), East Coast Developers, LLC (“ECD”), Gabriel Montecinos (“Mr. Montecinos”), and together with Capitol Drywall and ECD, “Defendants,” to recover unpaid wages, liquidated damages, reasonable attorney’s fees, costs, and other relief as appropriate under: Section 16(b) of the Federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 201 *et seq.* (the “FLSA”); Section 32-1012(b) of the D.C. Minimum Wage Act Revision Act, D.C. Code §§ 32-1001 *et seq.* (the “DCMWA”); the D.C. Wage Payment and Collection Law, D.C. Code §§ 32-1301 *et seq.* (the “DCWPCL”); and District of Columbia common law.

All allegations made in this complaint are based on Plaintiffs’ current knowledge, information, and belief, and are subject to amendment based on developments made during discovery.

PARTIES AND JURISDICTION

1. Plaintiff Mr. Alvarez resides in the State of Maryland and was employed by Defendants as a drywall finisher from March 2, 2017, to March 17, 2017.

2. Plaintiff Ms. Aquino resides in the State of Maryland and was employed by Defendants as a drywall finisher from March 6, 2017, to March 17, 2017.

3. Throughout their respective employment terms, Plaintiffs performed various drywall finishing tasks at a luxury residential construction site located at 2501 M Street NW, Washington, D.C. 20037.

4. At all times relevant to this action, Plaintiffs were employees engaged in commerce within the meaning of the FLSA.

5. On information and belief, defendant Capitol Drywall is a Maryland corporation, organized in 1996, with its principal place of business in Maryland. At all times relevant to this

action, Capitol Drywall operated continuously in the District of Columbia and the surrounding states, performing construction work and related services.

6. Capitol Drywall is an enterprise engaged in interstate commerce within the meaning of the FLSA, and is an employer of Plaintiffs within the meaning of the FLSA, the DCMWA and the DCWPCL.

7. On information and belief, Defendant ECD is a Maryland limited liability company, organized in 2013, with its principal place of business in Maryland. At all times relevant to this action, ECD operated continuously in the District of Columbia and the surrounding states, performing construction work and related services.

8. ECD is an enterprise engaged in interstate commerce within the meaning of the FLSA and is an employer of Plaintiffs within the meaning of the FLSA, the DCMWA and the DCWPCL.

9. Defendant Mr. Montecinos resides in the State of Maryland. Mr. Montecinos is the founder, president, and owner of ECD, and has exerted a substantial amount of control over significant aspects of the company's day-to-day operations in the District of Columbia and surrounding states during all relevant time periods.

10. Mr. Montecinos is an employer of Plaintiffs within the meaning of the FLSA, the DCMWA, and the DCWPCL.

11. The unlawful acts charged in this Complaint were committed by Defendants and/or Defendants' officers, agents, employees, or representatives while actively engaged in the management of Defendants' businesses or affairs and with the authorization of Defendants.

12. This Court has jurisdiction over Defendants pursuant to Section 16(b) of the FLSA, 29 U.S.C. § 216(b), and 28 U.S.C. § 1337, relating to "any civil action or proceeding arising under

any Act of Congress regulating commerce.” Subject matter jurisdiction is invoked under 28 U.S.C. § 1331.

13. This Court has supplemental jurisdiction over Plaintiffs’ claims pursuant to District of Columbia law under 28 U.S.C. § 1367(a) because those claims arise from a common set of operative facts and are so related to the claims in the action within the original jurisdiction of the Court that they form part of the same case or controversy.

14. Venue is proper pursuant to 28 U.S.C. § 1391.

COLLECTIVE ACTION COMPLAINT

15. This action is brought as a collective action pursuant to the FLSA, 29 U.S.C. § 216(b), the DCMWA, D.C. Code § 32-1012(a), and the DCWCPL, D.C. Code § 32-1308(a), by Plaintiffs, on behalf of themselves and all other employees similarly situated, based on employment with Defendants as non-exempt, hourly-paid or salaried employees between November 1, 2015, and the date of the final disposition of this action (the “Relevant Period”), to recover lost wages, liquidated damages, interest, attorneys’ fees, costs, and all other relief as appropriate for Defendants’ willful statutory violations.

16. Plaintiffs have each given their written consent to be party plaintiffs in this action under the FLSA, 29 U.S.C. § 216(b), the DCMWA, D.C. Code § 32-1012(a), and the DCWCPL, D.C. Code § 32-1308(a). Plaintiffs’ consents are appended to this Complaint as Attachments 1 and 2.

FACTS

Defendant Capitol Drywall's Status as Employers

17. Defendant Capitol Drywall is “one of the leading and fastest growing commercial drywall contractors in the Washington, D.C. metropolitan area.”¹ Capitol Drywall provides construction services including drywall installation, interior and structural metal stud framing, thermal and acoustical insulation and general carpentry for major residential and commercial construction projects.

18. On information and belief, Capitol Drywall uses various staffing companies and subcontractors to provide labor for its construction projects in the Washington, D.C. metro area.

19. The use of staffing companies, also known as labor brokers, is an increasingly common means for construction subcontractors to attempt to undercut their competitors' prices by avoiding compliance with fair labor statutes, such as the FLSA.²

20. On information and belief, at all relevant times, Defendant Capitol Drywall had an annual gross-income volume of business of over \$500,000, and at least two employees who were

¹ Capitol Drywall, Inc., <http://www.capitol-drywall.com/> (last visited Oct. 1, 2018).

² See, e.g., Catherine Ruckelshaus et al., National Employment Law Project, *Who's the Boss: Restoring Accountability for Labor Standards in Outsourced Work* (May 2014), <http://www.nelp.org/content/uploads/2015/02/Whos-the-Boss-Restoring-Accountability-Labor-Standards-Outsourced-Work-Report.pdf> (“Business outsourcing is on the rise, through practices such as multi-layered contracting, use of staffing or temp firms, franchising, misclassifying employees as independent contractors, and other means. . . . Lead companies that outsource distance themselves from the labor-intensive parts of their businesses and their responsibilities for those workers.”); Lydia DePillis, *Department of Labor Sends Warning Shot to Clients of Temp Staffing Agencies*, Wash. Post, Jan. 20, 2016, https://www.washingtonpost.com/news/wonk/wp/2016/01/20/departments-of-labor-sends-warning-shot-to-clients-of-temp-staffing-agencies/?utm_term=.243bbbf53369 (“Subcontracting, outsourcing, and the use of staffing agencies allows businesses to inexpensively scale up and scale down their labor needs, without the extra hassle and liability of adding payroll. But it also adds another layer between workers and the bosses who call the shots, shielding managers from responsibility when the labor provider doesn't follow the law.”).

engaged in interstate commerce or who handle, sell, or otherwise work on goods or materials that have moved in interstate commerce.

21. On information and belief, in early 2016, Defendant Capitol Drywall was contracted to perform construction duties on a new luxury apartment building being erected at 2501 M Street NW, Washington, DC 20037. The building has since been completed and is now known as “2501 M.”

22. According to the building’s website, 2501 M’s apartments “sparkle with high-end features,” including “[e]xpansive private terraces and balconies with Italian wood-effect porcelain tile” and “[p]rivate porte-cochere drop-off.”³ Two-bedroom apartments in 2501 M are currently for sale at prices ranging between \$1.2 million and \$2.6 million.⁴

23. Defendant Capitol Drywall provided supervisors, including an individual, whom the Plaintiffs knew as Raul or Raul Jose (hereinafter “Raul”), to manage work at 2501 M. On information and belief, Raul is an employee of Defendant Capitol Drywall.

24. Raul and other supervisors oversaw Plaintiffs and the other drywall finishers at the 2501 M worksite.

25. At the beginning of each workday, Plaintiffs reported to their supervisors, including Raul, for instructions.

26. Throughout the day, Raul and other supervisors moved through the worksite, observing the work of the finishers, assigning new tasks, and correcting them if they were not doing the work to Capitol Drywall’s standards.

³ 2501 Residences on M Street, <http://www.2501m.com/features/> (last visited Oct. 1, 2018); *id.*, <http://www.2501m.com/amenities/>.

⁴ DC Condo Boutique, <http://www.dccondoboutique.com/2501-m.php> (last visited Oct. 1, 2018).

27. Raul and the other supervisors had authority to send Plaintiffs and other employees home if they felt the work did not meet Capitol Drywall's standards.

28. Capitol Drywall provided materials such as nails and drywall for the 2501 M workers. The drywall finishers provided their own hand tools, such as hammers and drills.

Defendant East Coast Developers, LLC Generally

29. Defendant ECD is "one of the tri-state area's premier drywall contractors" and employs over 100 workers.⁵ ECD operates as a staffing agency or labor broker, employing individuals to perform work on construction projects for other companies. On information and belief, Defendant ECD does not operate its own construction sites but only staffs other companies' construction sites as a subcontractor or labor broker. Defendant ECD assigns the employees to work at various sites with different companies.

30. On information and belief, at all relevant times, Defendant ECD had an annual gross income volume of business of over \$500,000 and at least two employees who are engaged in interstate commerce or who handle, sell, or otherwise work on goods or materials that have moved in interstate commerce.

31. On information and belief, after contracting to perform construction duties for 2501 M, Defendant Capitol Drywall hired Defendant ECD as a subcontractor for the project.

32. Defendant ECD's owner and president, Defendant Montecinos, recruits employees by word-of-mouth and personal outreach. Mr. Montecinos has the final say as to whether individuals are hired to work for ECD, where they are assigned to work, when they work, and how much they are paid.

⁵ East Coast Developers, <http://www.eastcoastdevelopersllc.com/> (last visited Oct. 1, 2018).

33. Defendant ECD, through Defendant Montecinos, hired Plaintiffs to work at the 2501 M worksite.

34. Defendant ECD, through Defendant Montecinos, agreed to pay Plaintiffs at an hourly rate, irrespective of the cost, success, or failure of the project.

35. The rate of pay for each Plaintiff was determined by Defendant Montecinos upon hire.

36. Defendant ECD determined Plaintiffs' work schedule. ECD's foremen had authority to, and did in fact, set the employees' required hours. Plaintiffs worked eight hours a day, at least five days a week.

37. On information and belief, Defendant ECD employed two foremen, John Drury and Pedro (whose last name is unknown to Plaintiffs), at the 2501 M worksite.

38. The ECD foremen arrived at the worksite each morning and conferred with Capital Drywall supervisors including Raul. After this conversation, supervisors, including Raul, assigned tasks to Plaintiffs and the other workers.

39. On information and belief, supervisors such as Raul, as the representatives of Defendant Capitol Drywall, had ultimate authority to direct and control Plaintiffs and the other workers.

40. Defendants ECD and Capitol Drywall were jointly responsible for keeping track of Plaintiffs' hours. Plaintiffs signed in at the beginning of each workday on a sign-in sheet labeled with Defendant Montecinos's name. After Plaintiffs had signed in, Pedro, ECD's foreman, transcribed the information on the sheet with a tablet computer.

41. Plaintiffs, trusting that Defendant ECD's foreman would keep accurate records, kept only intermittent records of their own hours. The dates and times stated by Plaintiffs in this

Complaint are based on Plaintiffs' best memory and limited records of the time they worked for Defendants.

42. On information and belief, Defendant Montecinos communicated with Plaintiffs using means including telephone and text message to provide them information regarding how and when they would be paid for their work, in some cases assuring them that they would be paid.

Plaintiffs' Employment by Defendants

Tomas Alvarez

43. Defendants employed Plaintiff Tomas Alvarez from March 2, 2017, to March 17, 2017.

44. Defendant Montecinos determined that Mr. Alvarez would be paid \$19 per hour.

45. At the direction of Defendant Montecinos, Mr. Alvarez reported to the 2501 M worksite on March 2, 2017, and worked eight (8) hours that day. On March 3, 2017, Mr. Alvarez was sent to a different worksite in Reston, Virginia, where he was not given any work. On March 6, 2017, Mr. Alvarez returned to the 2501 M worksite, worked there eight (8) hours that day, and eight (8) hours each subsequent business day through March 17, 2017.

46. From March 2 to March 17, 2017, Mr. Alvarez worked 88 unpaid hours, for which Defendants owed him \$1,672 (88 hours at the regular rate of \$19 per hour).

Erika Aquino

47. Defendants employed Plaintiff Erika Aquino from March 6, 2017, to March 17, 2017.

48. Defendant Montecinos determined that Ms. Aquino would be paid \$19 per hour.

49. Ms. Aquino reported to the 2501 M worksite on March 6, 2017, and worked there eight (8) hours that day and each subsequent business day through March 17, 2017.

50. From March 6 to March 17, 2017, Ms. Aquino worked 80 hours, for which Defendants owed her \$1,520 (80 hours at the regular rate of \$19 per hour). However, Defendants paid her for only 40 hours of work (\$760).

Collective Action Allegations

51. Defendants required Plaintiffs and similarly situated employees to work without pay.

52. Defendants had an obligation under the FLSA to pay their employees at least \$7.25 per hour.

53. Defendants had an obligation under the DCMWA to pay their employees no less than the applicable District of Columbia minimum wage.

54. Defendants had an obligation under the DCWPCL to pay their employees all wages due for work performed.

55. Despite Defendants' obligations under relevant wage and hour laws, Defendants intentionally created and implemented a system through which they denied Plaintiffs and similarly situated employees minimum wages and wages due for work performed.

56. Defendants' compensation policies set forth above constitute willful, knowing, and intentional violations of the FLSA, the DCMWA and the DCWPCL.

57. Defendants authorized, assented to, or were aware of these violations and the work performed by the Plaintiffs and similarly situated employees.

58. At no time did Plaintiffs perform work that meets the definition of exempt work under the FLSA or DCMWA.

59. The collective action that Plaintiffs propose to maintain under the FLSA, 29 U.S.C. § 216(b), the DCMWA, D.C. Code § 32-1012(b), and the DCWPCL, D.C. Code § 32-

1308(a)(1)(C)(iii), includes all similarly situated employees who are or have been employed by Defendants as non-exempt, hourly-paid or salaried employees who were not paid at least the applicable District of Columbia minimum wage for each hour they worked during the Relevant Period.

60. During the Relevant Period, the duties and responsibilities of the jobs held by employees similarly situated to the Plaintiffs were the same or substantially similar to the duties and responsibilities of the jobs held by the Plaintiffs, in that all employees performed a variety of construction, carpentry, and drywall finishing jobs.

61. During the Relevant Period, the harms suffered by employees similarly situated to the Plaintiffs were the same or substantially similar to those suffered by the Plaintiffs, in that all such employees are and were subject to the Defendants' unlawful compensation policies and practices described in this Complaint.

62. Accordingly, all members of the proposed collective action are "similarly situated" within the meaning of the FLSA, 29 U.S.C. § 216(b), the DCMWA, D.C. Code § 32-1012(b), and the DCWPCL, D.C. Code § 32-1308(a)(2), and are therefore entitled to proceed on a collective basis.

63. The Plaintiffs are aware of other similarly situated employees: (1) who were employees of Defendants; (2) who were not paid as prescribed by law by Defendants; and (3) who had their wages unlawfully withheld by Defendants.

CAUSES OF ACTION

COUNT I VIOLATION OF THE FEDERAL FAIR LABOR STANDARDS ACT (FLSA) – MINIMUM WAGE

64. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 – 63 above.

65. At all times relevant to this complaint, Section 206 of the Fair Labor Standards Act provided that “[e]very employer shall pay to each of his employees who in any workweek is . . . employed in an enterprise engaged in commerce . . . wages at . . . \$7.25 an hour.”

66. Plaintiffs, and all others similarly situated, were “employees” and Defendants were their “employers” under the FLSA, 29 U.S.C. § 203.

67. Plaintiffs, and all others similarly situated, were “employed in an enterprise engaged in commerce” under the FLSA, 29 U.S.C. § 203.

68. The FLSA required Defendants to pay Plaintiffs, and all others similarly situated, at least \$7.25 for each hour they worked.

69. As set forth above, Defendants failed to pay Plaintiffs, and all others similarly situated, any wages at all during part or all of the employment of Plaintiffs and others similarly situated, to the injury of Plaintiffs and all others similarly situated, and are thus jointly and severally liable to Plaintiffs, and all others similarly situated, for damages.

70. Defendants’ violations of the FLSA were repeated, willful, intentional, and in bad faith.

71. WHEREFORE, Defendants are liable to Plaintiffs, and all other similarly situated employees, under the FLSA, 29 U.S.C. § 216(b), for all unpaid wages, plus an equal amount in liquidated damages, interest (both pre- and post- judgment), attorney’s fees, costs, and any other and further relief this Court deems appropriate.

COUNT II
VIOLATION OF THE D.C. MINIMUM WAGE ACT REVISION ACT (DCMWA) –
MINIMUM WAGE

72. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 – 71 above.

73. Section 32-1003(a)(5)(A) of the DCMWA, as amended by § 2(b) of the Fair Shot Minimum Wage Amendment Act of 2016, provides that “the minimum hourly wage required to be paid to an employee by an employer shall be as of : (i) July 1, 2016: \$11.50; (ii) July 1, 2017: \$12.50.”

74. Plaintiffs, and all others similarly situated, were “employees” and Defendants were their “employers” under the DCMWA, D.C. Code § 32-1002.

75. The DCMWA required Defendants to pay Plaintiffs, and all others similarly situated, no less than the applicable District of Columbia minimum wage for each hour they worked.

76. As set forth above, Defendants failed to pay Plaintiffs, and all others similarly situated, any wages at all during part or all of the employment of Plaintiffs and all others similarly situated, to the injury of Plaintiffs and all others similarly situated, and are thus jointly and severally liable to Plaintiffs, and all others similarly situated, for damages.

77. Defendants’ violations of the DCMWA were repeated, willful, intentional, and in bad faith.

78. WHEREFORE, Defendants are liable to Plaintiffs, and all other similarly situated employees, under the DCMWA, D.C. Code § 32-1012(b), for all unpaid wages, plus liquidated damages equal to treble the amount of the unpaid wages, interest (both pre- and post- judgment), attorney’s fees, costs, and any other and further relief this Court deems appropriate.

COUNT III
VIOLATION OF THE D.C. WAGE PAYMENT AND COLLECTION LAW (DCWPCL) – UNPAID WAGES

79. Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1 – 78 above.

80. Plaintiffs, and all others similarly situated, were “employees” and Defendants were their “employers” under the DCWPCL, D.C. Code § 32-1301.

81. The DCWPCL, D.C. Code § 32-1302, required Defendants to pay Plaintiffs, and all others similarly situated, all wages due for work performed.

82. As set forth above, Defendants failed to pay Plaintiffs, and all others similarly situated, any wages at all during part or all of the employment of Plaintiffs and others similarly situated, to the injury of Plaintiffs and all others similarly situated, and are thus jointly and severally liable to Plaintiffs, and all others similarly situated, for damages.

83. Defendants’ violations of the DCWPCL were repeated, willful, intentional, and in bad faith.

WHEREFORE, Defendants are liable to Plaintiffs and all others similarly situated under the DCWPCL, D.C. Code § 32-1308(a), for their unpaid wages, liquidated damages equal to treble the amount of unpaid wages, interest (both pre- and post- judgment), attorneys’ fees, costs, and any other and further relief this Court deems appropriate.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and other similarly situated, respectfully request that the Court:

A. Declare this action to be maintainable as a collective action pursuant to the FLSA, 29 U.S.C. § 216(b), the DCMWA, D.C. Code § 32-1012(b), and the DCWPCL, D.C. Code § 32-1308(a)(1)(C)(iii), and direct Defendants to provide to Plaintiffs a list of all persons employed by them as hourly and salaried employees during the Relevant Period, including the last known street address, email address, and telephone number(s) of each such person,

so that Plaintiffs can give such persons notice of this action and an opportunity to make an informed decision about whether to participate in it;

B. Determine the damages sustained by the Plaintiffs and all similarly situated employees during the Relevant Period as a result of Defendants' willful and intentional violations of the FLSA, 29 U.S.C. § 207(a), and the DCMWA, D.C. Code § 32-1003(c), and award such back pay against Defendants in favor of Plaintiffs and all similarly situated employees, plus liquidated damages in an additional equal amount pursuant to 29 U.S.C. § 216(b) and liquidated damages equal to treble the amount of unpaid wages pursuant to D.C. Code § 32-1012(b), plus such pre-judgment interest as may be allowed by law;

C. Determine the damages sustained by Plaintiffs and all similarly situated employees during the Relevant Period as a result of Defendants' willful and intentional violations of the DCWPCL and award all appropriate damages resulting therefrom to Plaintiffs and all similarly situated employees, including but not limited to liquidated damages equal to treble the amount of unpaid wages pursuant to the DCWPCL, D.C. Code § 32-1308(a)(1)(A)(ii);

D. Determine the damages sustained by Plaintiffs, and all similarly situated employees, during the Relevant Period as a result of Defendants' willful and intentional violations of the FLSA, 29 U.S.C. § 215(a)(2), and award all appropriate damages resulting therefrom to Plaintiffs and similarly situated employees pursuant to 29 U.S.C. § 216(b);

E. Determine that injunctive relief is appropriate as to the Plaintiffs and all similarly situated employees, and enjoin Defendants from continuing to violate the DCMWA and the DCWPCL;

F. Award Plaintiffs their costs and disbursements of this suit, including, without limitation, reasonable attorneys' fees, accountants' fees, investigators' fees, experts' fees, and other associated costs; and

G. Grant Plaintiffs and all similarly situated employees such other and further relief as this Court may deem just and proper.

Dated: November 2, 2018

Respectfully submitted,

By: /s/ Kevin Metz

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Counsel for Plaintiffs Alvarez and Aquino

ATTACHMENT 1

CONSENT TO BECOME PARTY PLAINTIFF TO RECOVER UNPAID WAGES

By my signature below, I represent to the Court that I have worked for Capitol Drywall, Inc. and that during this time Capitol Drywall, Inc. failed to properly compensate me for my work. I authorize the filing and prosecution of an action in my name and on my behalf and on behalf of others similarly situated to recover unpaid wages, liquidated damages, and all other relief provided under the Fair Labor Standards Act and any other applicable federal or state laws.

CONSENTIMIENTO DE SER PARTE DEMANDANTE PARA RECUPERAR PAGO NO RETRIBUIDO

Por la firma abajo, represento a la Corte que he trabajado por Capitol Drywall, Inc. y durante mi empleo Capitol Drywall, Inc. me negaba el pago correcto para el trabajo que hice. En mi parte y en parte de los que están en situaciones similares, autorizo el inicio de una demanda y el procesamiento penal contra cualquier acción adversa, con el fin de recuperar el pago no retribuido, los daños liquidados, y otra reparación judicial provista por la Ley de Normas Justas de Trabajo (FLSA) y cualquier otra ley federal o estatal que sean aplicables.

10-15-18
Date / Fecha

Erika Aquino
Signature / Firma

Erika Aquino
Printed name / Nombre en letras de imprenta

2020 Lewisdale Dr.
Street address / Dirección

hyattsville MD 20783
City, state, zip code / Ciudad, estado, código postal

ATTACHMENT 2

CONSENT TO BECOME PARTY PLAINTIFF TO RECOVER UNPAID WAGES

By my signature below, I represent to the Court that I have worked for Capitol Drywall, Inc. and that during this time Capitol Drywall, Inc. failed to properly compensate me for my work. I authorize the filing and prosecution of an action in my name and on my behalf and on behalf of others similarly situated to recover unpaid wages, liquidated damages, and all other relief provided under the Fair Labor Standards Act and any other applicable federal or state laws.

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10-14-2018
Date / Fecha

Tomas Alvarez
Signature / Firma

Tomas Alvarez Ortiz
Printed name / Nombre en letras de imprenta

10616 Hock Betty Way
Street address / Dirección

Beltsville, MD 20705
City, state, zip code / Ciudad, estado, código postal

CIVIL COVER SHEET

JS-44 (Rev. 6/17 DC)

I. (a) PLAINTIFFS Tomas Alvarez and Erika Aquino, on behalf of themselves and all others similarly situated (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>88888</u> (EXCEPT IN U.S. PLAINTIFF CASES)	DEFENDANTS Capitol Drywall, Inc., East Coast Developers, and Gabriel Montecinos COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>
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(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Daniel A. Katz Washington Lawyers Committee for Civil Rights and Urban Affairs 11 Dupont Circle NW, Suite 400 Washington, D.C. 20036 (202) 319-1000	ATTORNEYS (IF KNOWN) Kevin H. Metz Latham & Watkins, LLP 555 Eleventh Street, NW Suite 1000 Washington, D.C. 20004 (202) 637-2200
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II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY) <input type="radio"/> 1 U.S. Government Plaintiff <input checked="" type="radio"/> 3 Federal Question (U.S. Government Not a Party) <input type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY! <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
	PTF	DFT		PTF	DFT																				
Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4																				
Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5																				
Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> A. Antitrust <input type="checkbox"/> 410 Antitrust	<input type="radio"/> B. Personal Injury/Malpractice <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> C. Administrative Agency Review <input type="checkbox"/> 151 Medicare Act <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction Any nature of suit from any category may be selected for this category of case assignment. *(If Antitrust, then A governs)*
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<input type="radio"/> E. General Civil (Other)		OR	<input type="radio"/> F. Pro Se General Civil	
<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 <u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)	

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/Privacy Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input checked="" type="radio"/> K. Labor/ERISA (non-employment) <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 Violation of Section 16(b) of the FLSA, 29 USC §§ 201 et seq., recovery of unpaid wages, liquidated damages, and other

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ to be determined at trial	Check YES only if demanded in complaint JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: <u>11/2/2018</u>	SIGNATURE OF ATTORNEY OF RECORD <u>/s/ Kevin H. Metz</u>
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

TOMAS ALVAREZ and ERIKA AQUINO

Plaintiff(s)

v.

CAPITOL DRYWALL, INC.,
EAST COAST DEVELOPERS, LLC,
and GABRIEL MONTECINOS

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Capitol Drywall, Inc.
7871 Beechcraft Avenue
Suite 100
Gaithersburg, MD 20879

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:

Kevin H. Metz
Latham & Watkins LLP
555 Eleventh Street NW
Suite 1000
Washington, D.C. 20004

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.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Capitol Drywall, Inc.
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:

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

TOMAS ALVAREZ and ERIKA AQUINO

Plaintiff(s)

v.

CAPITOL DRYWALL, INC.,
EAST COAST DEVELOPERS, LLC,
and GABRIEL MONTECINOS

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) East Coast Developers, LLC
18219-D Flower Hill Way
Gaithersburg, MD 20789

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:

Kevin H. Metz
Latham & Watkins LLP
555 Eleventh Street NW
Suite 1000
Washington, D.C. 20004

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.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* East Coast Developers, LLC
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:

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

TOMAS ALVAREZ and ERIKA AQUINO

Plaintiff(s)

v.

CAPITOL DRYWALL, INC.,
EAST COAST DEVELOPERS, LLC,
and GABRIEL MONTECINOS

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Gabriel Montecinos
7429 Rosewood Manor Lane
Gaithersburg, MD 20882

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:

Kevin H. Metz
Latham & Watkins LLP
555 Eleventh Street NW
Suite 1000
Washington, D.C. 20004

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.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

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

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: Capitol Drywall, East Coast Developers Failed to Pay Due Wages](#)
