

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

BRYAN FERRERO, on behalf of  
himself and all others similarly  
situated,

Plaintiff,

vs.

NATIONWIDE TRANSPORT  
SERVICES, LLC,

Defendants.

\_\_\_\_\_ /

**COMPLAINT AND DEMAND FOR JURY TRIAL**

The Plaintiff, BRYAN FERRARO ("Plaintiff"), on behalf of himself and all others similarly situated, by and through undersigned counsel, sues the Defendant, NATIONWIDE TRANSPORT SERVICES, LLC, a Florida limited liability company, and for his causes of action, declares and avers as follows:

1. Plaintiff brings this action on behalf of himself and all others similarly situated to recover from the Defendant unpaid minimum wages and overtime compensation, liquidated damages, costs and reasonable attorneys' fees, as well as for declaratory and injunctive relief, under the provisions of the FLSA, 29 U.S.C. § 201, *et seq.*, and specifically under 29 U.S.C. § 216(b).
2. Plaintiff is a citizen and resident of Broward County, Florida, and within the jurisdiction of this Court.
3. Defendant, NATIONWIDE TRANSPORT SERVICES, LLC, is a Florida limited liability company, doing business in Florida, and within the jurisdiction of this Court.
4. Plaintiff brings this action on behalf of himself and all other similarly situated current and former employees of Defendant, for compensation and other relief under the

Fair Labor Standards Act, as amended, 29 U.S.C. § 201, *et seq.* (hereinafter referred to as “the FLSA”).

5. Jurisdiction is conferred on this Court by 28 U.S.C. § 1331 and by 29 U.S.C. § 216(b).
6. At all times material hereto, Defendant was, and continues to be, engaged in interstate commerce as defined by the FLSA.
7. At all times material hereto, during his employment with Defendant, Plaintiff was engaged in interstate commerce.
8. The additional persons who may become plaintiffs in this action, and who Plaintiff believes are entitled to notification of the pendency of this action, and of their right to opt-in to this action, are current and former employees of Defendant, who are or were subject to the payroll practices and procedures described in the paragraphs below.
9. At all times pertinent to this Complaint, Defendant failed to comply with 29 U.S.C. § 201-19 in that Plaintiff and those current and former similarly situated employees, while employed by Defendant, performed hours of service for Defendant during one or more workweeks, for which they failed to properly receive minimum wages and overtime premiums.
10. Plaintiff, and those current and former employees similarly situated to Plaintiff, are and were, for varying periods of time, improperly classified as independent contractors.
11. In the course of his employment with the Defendant, Plaintiff, and other current and former employees similarly situated to him, worked the number of hours required of them, in excess of forty (40) per workweek and in fact typically in excess of sixty (60) hours per workweek, but were not paid a proper minimum hourly wage or

overtime premiums for any hours worked in excess of forty (40).

12. The pay practices of the Defendant, as described in the above paragraphs, violated the FLSA by failing to pay proper minimum wages and overtime compensation to Plaintiff, and those other current and former employees similarly situated to Plaintiffs, for those hours worked per workweek, including in excess of forty (40).
13. During the three (3) years preceding the filing of this lawsuit, Defendant have (1) employed and continue to employ individuals similarly situated to Plaintiff; (2) classified and continue to classify these individuals as independent contractors for certain periods of time; and (3) suffered or permitted to be suffered, with knowledge, hours of service by these individuals, including in excess of forty (40) during one or more workweeks, for which Defendant failed to pay proper minimum wages and/or overtime premiums for those hours worked in excess of forty (40). Each employee who performed and/or continues to perform services for Defendant, for any time period during the three (3) years preceding this lawsuit, is entitled to notification of the pendency of this action and of his/her right to consent to becoming a party to this action.

#### **COUNT I - RECOVERY OF UNPAID OVERTIME**

14. Plaintiff re-avers and re-alleges all allegations contained in paragraphs 1 through 13 above as if fully set forth herein.
15. Plaintiff is entitled to be paid time and one-half for each hour worked in excess of forty (40) per workweek and to have such overtime calculated in accordance with Federal Regulations, to include commission/bonus payments earned in the appropriate workweek in the calculation of the regular rate for the purposes of determining overtime entitlement. All similarly situated employees are similarly owed time and one-half, calculated properly, for those overtime hours they worked

and for which they were not properly paid.

16. By reason of the willful and unlawful acts of the Defendant, all Plaintiffs (Plaintiff and those similarly situated to him) have suffered damages plus incurred costs and reasonable attorneys' fees.
17. As a result of the Defendant's violation of the Act, all Plaintiffs (Plaintiff and those similarly situated to him) are entitled to liquidated damages in an amount equal to that which they are owed as unpaid overtime.

WHEREFORE, Plaintiff, BRYAN FERRARO, and those similarly situated to him, who have or will opt-in to this action, demand judgment against Defendant for the overtime compensation payments due them for the hours worked by them for which they have not been properly compensated, liquidated damages, reasonable attorneys' fees and costs of suit, and for all other relief the Court deems just and proper.

#### **COUNT II - RECOVERY OF MINIMUM WAGES**

18. Plaintiff re-avers and re-alleges all allegations contained in paragraphs 1 through 13 above as if fully set forth herein.
19. Plaintiff is entitled to be paid his statutory minimum wages for each hour worked per workweek. All similarly situated employees are similarly owed minimum wages, for those hours they worked and for which they were not properly paid.
20. By reason of the willful and unlawful acts of the Defendant, all Plaintiffs (Plaintiff and those similarly situated to him) have suffered damages plus incurred costs and reasonable attorneys' fees.
21. As a result of the Defendant's violation of the Act, all Plaintiffs (Plaintiff and those similarly situated to him) are entitled to liquidated damages in an amount equal to that which they are owed as unpaid overtime.

WHEREFORE, Plaintiff, BRYAN FERRARO, and those similarly situated to him,

who have or will opt-in to this action, demand judgment against Defendant for the minimum wages due them for the hours worked by them for which they have not been properly compensated, liquidated damages, reasonable attorneys' fees and costs of suit, and for all other relief the Court deems just and proper.

**PLAINTIFF DEMANDS TRIAL BY JURY ON ALL ISSUES SO TRIABLE**

Dated: January 30, 2017  
Boca Raton, FL

Respectfully submitted,

*/s Daniel R. Levine*

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Counsel for Plaintiff

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.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS BRYAN FERRERO, on behalf of himself and all others similarly situated, DEFENDANTS NATIONWIDE TRANSPORT SERVICES, LLC

(b) County of Residence of First Listed Plaintiff Broward (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number) Daniel R. Levine, Esq. - Padula Bennardo Levine, LLP, 101 Plaza Real South, Ste. 207, Boca Raton, FL 33432 (561) 544-8900

Attorneys (If Known)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State Citizen of Another State Citizen or Subject of a Foreign Country
PTF DEF 1 1 2 2 3 3
Incorporated or Principal Place of Business In This State Incorporated and Principal Place of Business In Another State Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT TORTS FORFEITURE/PENALTY LABOR SOCIAL SECURITY FEDERAL TAX SUITS
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excl. Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise
PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury 362 Personal Injury - Med. Malpractice
PERSONAL INJURY 365 Personal Injury - Product Liability 367 Health Care/Pharmaceutical Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability
625 Drug Related Seizure of Property 21 USC 881 690 Other
710 Fair Labor Standards Act 720 Labor/Mgmt. Relations 740 Railway Labor Act 751 Family and Medical Leave Act 790 Other Labor Litigation 791 Empl. Ret. Inc. Security Act
422 Appeal 28 USC 158 423 Withdrawal 28 USC 157
820 Copyrights 830 Patent 840 Trademark
861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g))
870 Taxes (U.S. Plaintiff or Defendant) 871 IRS—Third Party 26 USC 7609
375 False Claims Act 376 Qui Tam (31 USC 3729 (a)) 400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce 460 Deportation 470 Racketeer Influenced and Corrupt Organizations 480 Consumer Credit 490 Cable/Sat TV 850 Securities/Commodities/Exchange 890 Other Statutory Actions 891 Agricultural Acts 893 Environmental Matters 895 Freedom of Information Act 896 Arbitration 899 Administrative Procedure Act/Review or Appeal of Agency Decision 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding 2 Removed from State Court 3 Re-filed (See VI below) 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation Transfer 7 Appeal to District Judge from Magistrate Judgment 8 Multidistrict Litigation - Direct File 9 Remanded from Appellate Court

VI. RELATED/RE-FILED CASE(S) (See instructions): a) Re-filed Case YES NO b) Related Cases YES NO
JUDGE: DOCKET NUMBER:

VII. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):
29 U.S.C. § 201, et seq. - Violation of the Fair Labor Standards Act
LENGTH OF TRIAL via 2-3 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 1,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE
DATE January 30, 2017 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY RECEIPT # AMOUNT IFP JUDGE MAG JUDGE

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

UNITED STATES DISTRICT COURT

for the

Southern District of Florida



BRYAN FERRERO, on behalf of himself  
and all others similary situated,

Plaintiff(s)

v.

NATIONWIDE TRANSPORT SERVICES, LLC,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) NATIONWIDE TRANSPORT SERVICES, LLC  
By Serving Its Registered Agent:

SPIEGEL & UTRERA, P.A.  
1840 SW 22nd Street  
4th Floor  
Miami, FL 33145

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:

Daniel R. Levine, Esquire  
Padula Bennardo Levine, LLP  
101 Plaza Real South, Suite 207  
Boca Raton, FL 33432  
(561) 544-8900  
DRL@PBL-Law.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Clerk or Deputy Clerk

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Unpaid Wage Class Action Filed Against Nationwide Transport Services](#)

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