

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO.:

JUAN A. GONZALEZ,
and other similarly-situated individuals,

Plaintiff (s),
v.

FALCON FARMS, INC.

Defendant,
_____ /

COMPLAINT
(OPT-IN PURSUANT TO 29 U.S.C § 216(b))

COMES NOW the Plaintiff JUAN A. GONZALEZ, and other similarly-situated individuals, by and through the undersigned counsel, and hereby sues Defendant FALCON FARMS, INC., and alleges:

1. This is an action to recover money damages for unpaid half-time overtime wages under the laws of the United States. This Court has jurisdiction pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201-219 (Section 216 for jurisdictional placement) (“the Act”).
2. Plaintiff JUAN A. GONZALEZ is a resident of Miami-Dade County, Florida. Plaintiff is a covered employee for purposes of the Act.
3. Defendant FALCON FARMS, INC. (hereinafter FALCON FARMS, or Defendant) is a Florida corporation, having its main place of business in Miami-Dade County, Florida, where Plaintiff worked. Defendant was the employer of Plaintiff and others similarly situated within the meaning of Section 3(d) of the “Fair Labor Standards

Act” [29 U.S.C. § 203(d)]. Defendant FALCON FARMS is engaged in interstate commerce within the meaning of the Fair Labor Standards Act.

4. All the actions raised in this complaint took place in Dade County Florida, within the jurisdiction of this Court.

ALLEGATIONS COMMON TO ALL COUNTS

5. This cause of action is brought by Plaintiff as a collective action to recover from Defendant regular wages, half-time overtime compensation, liquidated damages, and the costs and reasonably attorney’s fees under the provisions of Fair Labor Standards Act, as amended, 29 U.S.C. § 201 *et seq* (the “FLA or the “ACT”), and on behalf of Plaintiff and all other current and former employees similarly situated to Plaintiff (“the asserted class”) who worked in excess of forty (40) hours during one or more weeks on or after January 2016, (the “material time”) without being properly compensated.
6. Corporate Defendant FALCON FARMS is an importer and distributor of fresh flowers. Defendant provides logistic services such as warehousing, distribution and transportation of florals. Defendant FALCON FARMS is specialized in the production of bouquets and flower arrangements to be sold at retail stores. Defendant was engaged in the production of goods for commerce
7. FALCON FARMS received fresh flowers from different providers, Defendant stored the flowers, then part of the cargo was sold, allocated, sorted, packed, and distributed. The other part of the cargo was destined to the manufacturing or production of all kind of flower arrangements for retail distribution.

8. Defendant FALCON FARMS employed Plaintiff JUAN A. GONZALEZ, from approximately January 18, 2016 through December 26, 2017, or 101 weeks.
9. Plaintiff was hired to work as a local delivery driver with a wage rate of \$11.00 an hour. Plaintiff overtime rate should be \$16.50 an hour.
10. Plaintiff main duty consisted of delivering flowers, and flower arrangements locally. Plaintiff had additional duties performing general warehousing work like pulling orders, sorting, palletizing, shrink-wrapping orders, and disposal of waste material.
11. While employed by Defendant, Plaintiff had a very irregular schedule. Plaintiff worked 5 days per week, from 7:00 AM until the time he completed his work assignment for the day. Plaintiff estimates that he worked an average of 50 or more hours per week.
12. Plaintiff was paid at the wage rate of \$11.00 an hour, plus overtime hours at the rate of time and a half his regular, or \$16.50 an hour.
13. However, Plaintiff was in complete disagreement with the number of hours paid to him for the following reasons: 1) Sometimes Plaintiff's paystubs showed less than 40 hours worked in a week period, although Plaintiff knew that he worked more than 40 hours; 2) there were a number of hours which constituted overtime, that were paid at the regular rate of \$11.00 an hour; 3) Defendant deducted 1 hour of lunch-time every day, regardless the fact that Plaintiff was unable to take any bona-fide lunch period. **See composite Exhibit "A"**.

14. Upon any irregularity in his paystub, Plaintiff complained to his supervisor Juan Gabriel Gonzalez. Plaintiff complained multiple times, and he always get the same answer: “Here, we pay like that, those are your hours for this check, take it or leave”.
15. Plaintiff is not in possession of time and payment records, but he has some paystubs that shows that he is owed many regular hours, and half-time for overtime hours that were paid at his regular rate of \$11.00 an hour.
16. In addition, Plaintiff is owed one lunch hour daily, or 5 hours weekly, which were improperly deducted from his total number of working hours.
17. During his employment with Defendant, Plaintiff was not paid for all hours worked, as established by the Fair Labor Standards Act. and he was not paid for overtime hours at the correct rate.
18. Plaintiff clocked in and out, and Defendant was able to track the number of hours worked by Plaintiff and other similarly situated individuals. Defendant should be in possession of time records.
19. Therefore, Defendant willfully failed to pay Plaintiff overtime at the rate of time and a half his regular rate, for every hour that he worked in excess of forty (40), in violation of Section 7 (a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(a)(1)).
20. On or about December 26, 2017, Plaintiff was terminated after he had an argument with a co-worker. Plaintiff is in the belief that he was terminated in retaliation to his multiple complaints about unpaid wages.

21. In the present complaint, Plaintiff is going to include a Minimum Wage Count providing a good faith estimate of unpaid wages based only on his deducted lunch hours. Plaintiff is going to include also an Overtime Count to claim half time overtime for O/T hours paid at regular rate, based on paystubs which are in his possession. After proper discovery, Plaintiff will amend his Statement of Claim to include, any unpaid regular hours and half-time for overtime hours paid at regular rate during all his time of employment with Defendant.
22. Plaintiff JUAN A. GONZALEZ intends to recover five hours of lunch time weekly, any unpaid regular hour, and half-time overtime for every overtime hour which was paid at his regular rate, liquidated damages, retaliatory damages, and any other relief as allowable by law.
23. The additional persons who may become Plaintiffs in this action are employees and/or former employees of Defendant who are and who were subject to the unlawful payroll practices and procedures of Defendant and were not paid regular or overtime wages at the rate of time and one half of their regular rate of pay for all overtime hours worked in excess of forty.

COUNT I:
WAGE AND HOUR FEDERAL STATUTORY VIOLATION of 29 U.S.C. § 207
(a)(1)FAILURE TO PAY OVERTIME

24. Plaintiff JUAN A. GONZALEZ re-adopts each and every factual allegation as stated in paragraphs 1-23 above as if set out in full herein.
25. This action is brought by Plaintiff and those similarly-situated to recover from the Employers unpaid overtime compensation, as well as an additional amount as liquidated damages, costs, and reasonable attorney's fees under the provisions of

29 U.S.C. § 201 et seq., and specifically under the provisions of 29 U.S.C. § 207. 29 U.S.C. § 207 (a)(1) states, “No employer shall employ any of his employees... for a work week longer than 40 hours unless such employee receives compensation for his employment in excess of the hours above-specified at a rate not less than one and a half times the regular rate at which he is employed.”

26. The Employer FALCON FARMS, at all times pertinent to this Complaint, was engaged in interstate commerce or in the production of goods for commerce, within the meaning of the FLSA, and as defined in §§ 3 (r) and 3(s) of the Act, 29 U.S.C. § 203(r) and 203(s). The Defendant is an importer of fresh flowers, producer of flower arrangements and logistic company, and through its business activity, affects interstate commerce. Defendant had more than two employees recurrently engaged in commerce or in the production of goods for commerce. The Employer/Defendant obtains and solicits funds from non-Florida sources, accepts funds from non-Florida sources, uses telephonic transmissions going over state lines to do its business, transmits funds outside the State of Florida, and otherwise regularly engages in interstate commerce, particularly with respect to their employees. Upon information and belief, the annual gross revenue of the Employer/Defendant was at all times material hereto in excess of \$500,000 per annum, and/or Plaintiff and those similarly-situated, by virtue of working in interstate commerce, otherwise satisfy the Act’s requirements. Therefore, there is FLSA enterprise coverage.

27. The Plaintiff’s work for the Defendant likewise affects interstate commerce. Plaintiff was a local driver and through his daily activities he regularly, handled, or otherwise worked on goods and/or materials that have been moved across State

- lines at any time in the course of business. Therefore, there is FLSA individual coverage.
28. Defendant FALCON FARMS employed Plaintiff JUAN A. GONZALEZ, from approximately January 18, 2016 through December 26, 2017, or 101 weeks.
29. Plaintiff was hired to work as a local delivery driver with a wage rate of \$11.00 an hour. Plaintiff overtime rate should be \$16.50 an hour.
30. While employed by Defendant, Plaintiff had a very irregular schedule. Plaintiff worked 5 days per week, from 7:00 AM until the time he completed his work assignment for the day. Plaintiff estimates that he worked an average of 50 or more hours per week.
31. Plaintiff was paid at the wage rate of \$11.00 an hour, plus overtime hours at the rate of time and a half his regular, or \$16.50 an hour.
32. However, Plaintiff was in complete disagreement with the number of hours paid to him for the following reasons: 1) Sometimes Plaintiff's paystubs showed less than 40 hours worked in a week period, although Plaintiff knew that he worked more than 40 hours; 2) there were a number of hours which constituted overtime, that were paid at the regular rate of \$11.00 an hour; 3) Defendant deducted 1 hour of lunch-time every day, but Plaintiff was unable to take any bona-fide lunch period.
33. Plaintiff worked in excess of 40 hours, but he was not properly compensated, he was paid for overtime hours at his regular rate or \$11.00 an hour.
34. Therefore, Defendant willfully failed to pay Plaintiff overtime at the rate of time and a half his regular rate, for every hour that he worked in excess of forty (40), in

violation of Section 7 (a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(a)(1).

35. Plaintiff clocked in and out using a time-keeping device, Defendant was able to track the real number of hours worked by Plaintiff, and other individual similarly situated. Consequently, Defendant willfully failed to pay Plaintiff a substantial number of overtime hours every week.

36. Plaintiff never had access to check the number of hours he worked every week. Plaintiff was paid his regular wages bi-weekly, with paystub that did not reflect the real number of hours worked during the week.

37. The records concerning the number of hours actually worked by Plaintiff JUAN A. GONZALEZ, and all other similarly-situated employees, and the compensation actually paid to such employees should be in the possession and custody of Defendant. However, upon information and belief, Defendant did not maintain accurate time records of hours worked by Plaintiff and other employees.

38. Defendant violated the record keeping requirements of FLSA, 29 CFR Part 516.

39. Prior to the completion of discovery and to the best of Plaintiff's knowledge, at the time of the filing of this complaint, Plaintiff's good faith estimate of unpaid wages are as follows:

* Please note that these amounts are based on a preliminary calculation and that these figures are subjected to modifications as discovery could dictate. Plaintiff has taken the number of overtime hours paid at regular rate from some paystubs in his possession. After discovery, Plaintiff will properly adjust his calculations.

a. Total amount of alleged unpaid wages:

One Thousand Two Hundred Ninety-Two Dollars and 94/100 (\$1,292.94)

b. Calculation of such wages:

Total weeks of employment: 101 weeks
Total relevant week of employment: 101
Total Overtime hours: 28 hours weekly
Regular rate: \$11.00 an hour x 1.5=\$16.50 O/T rate
O/T rate \$16.50 an hour - \$11.00 an hour paid= \$5.50 half-time difference

i. Half-time overtime taken from 12 paystubs 2016

103.24 O/T hours x \$5.50 half-time=\$567.82

ii. Half-time overtime taken from 10 paystubs 2017

131.84 O/T hours x \$5.50 half-time=\$725.12

Total i and ii = \$1,292.94

Half-time \$5.50 x 28 hours=\$154.00 weekly x 71 weeks=\$10,934.00

c. Nature of wages (e.g. overtime or straight time):

This amount represents the unpaid half-time overtime.

40. At all times material hereto, the Employer/Defendant FALCON FARMS failed to comply with Title 29 U.S.C. §§ 201-219 and 29 C.F.R. § 516.2 and § 516.4 et seq. in that Plaintiff and those similarly-situated performed services and worked in excess of the maximum hours provided by the Act but no provision was made by the Defendant to properly pay them at the rate of time and one half for all hours worked in excess of forty hours (40) per workweek as provided in said Act. The additional persons who may become Plaintiffs in this action are weekly-paid employees and/or former employees of Defendant who are and who were subject to the unlawful payroll practices and procedures of Defendant and were not paid time and one half of their regular rate of pay for all overtime hours and straight time hours worked in excess of forty.

41. Defendant FALCON FARMS knew and/or showed reckless disregard of the provisions of the Act concerning the payment of overtime wages as required by the Fair Labor Standards Act and remains owing Plaintiff and those similarly-situated these overtime wages since the commencement of Plaintiff's and those similarly-situated employee's employment with Defendant as set forth above, and Plaintiff and those similarly-situated are entitled to recover double damages.
42. Defendant FALCON FARMS willfully and intentionally refused to pay Plaintiff overtime wages as required by the law of the United States and remain owing Plaintiff these overtime wages since the commencement of Plaintiff's employment with Defendant, as set forth above.
43. Plaintiff has retained the law offices of the undersigned attorney to represent him in this action and is obligated to pay a reasonable attorneys' fee.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff JUAN A. GONZALEZ and those similarly-situated individuals respectfully request that this Honorable Court:

- A. Enter judgment for Plaintiff JUAN A. GONZALEZ and other similarly-situated and against the Defendant FALCON FARMS, on the basis of Defendant's willful violations of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq.; and
- B. Award Plaintiff actual damages in the amount shown to be due for unpaid half-time overtime compensation for hours worked in excess of forty weekly, with interest; and
- C. Award Plaintiff an equal amount in double damages/liquidated damages; and
- D. Award Plaintiff reasonable attorneys' fees and costs of suit; and

E. Grant such other and further relief as this Court deems equitable and just and/or available pursuant to Federal Law.

JURY DEMAND

Plaintiff JUAN A. GONZALEZ and those similarly-situated demand trial by jury of all issues triable as of right by jury.

COUNT II:
F.L.S.A. WAGE AND HOUR FEDERAL STATUTORY VIOLATION:
FAILURE TO PAY MINIMUM WAGE

44. Plaintiff JUAN A. GONZALEZ re-adopts each and every factual allegation as stated in paragraphs 1-23 of this complaint as if set out in full herein.

45. The Employer FALCON FARMS, at all times pertinent to this Complaint, was engaged in interstate commerce or in the production of goods for commerce, within the meaning of the FLSA, and as defined in §§ 3 (r) and 3(s) of the Act, 29 U.S.C. § 203(r) and 203(s). The Defendant is an importer of fresh flowers, producer of flower arrangements and logistic company, and through its business activity, affects interstate commerce. Defendant had more than two employees recurrently engaged in commerce or in the production of goods for commerce. The Employer/Defendant obtains and solicits funds from non-Florida sources, accepts funds from non-Florida sources, uses telephonic transmissions going over state lines to do its business, transmits funds outside the State of Florida, and otherwise regularly engages in interstate commerce, particularly with respect to their employees. Upon information and belief, the annual gross revenue of the Employer/Defendant was at all times material hereto in excess of \$500,000 per annum, and/or Plaintiff and those

similarly-situated, by virtue of working in interstate commerce, otherwise satisfy the Act's requirements. Therefore, there is FLSA enterprise coverage.

46. The Plaintiff's work for the Defendant likewise affects interstate commerce.

Plaintiff was a local driver and through his daily activities he regularly, handled, or otherwise worked on goods and/or materials that have been moved across State lines at any time in the course of business. Therefore, there is FLSA individual coverage.

47. This action is brought by Plaintiff to recover from the Employer unpaid minimum

wages, as well as an additional amount as liquidated damages, costs, and reasonable attorney's fees under the provisions of 29 U.S.C. § 201 et seq., and specifically under the provisions of 29 U.S.C. §206. U.S.C. §206 states "Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates:

(1) except as otherwise provided in this section, not less than—

(A) \$5.85 an hour, beginning on the 60th day after May 25, 2008;

(B) \$6.55 an hour, beginning 12 months after that 60th day; and

(C) \$7.25 an hour, beginning 24 months after that 60th day.

48. Defendant FALCON FARMS employed Plaintiff JUAN A. GONZALEZ, from approximately January 18, 2016 through December 26, 2017, or 101 weeks.

49. Plaintiff was hired to work as a local delivery driver with a wage rate of \$11.00 an hour. Plaintiff overtime rate should be \$16.50 an hour.

50. While employed by Defendant, Plaintiff had a very irregular schedule. Plaintiff worked 5 days per week, from 7:00 AM until the time he completed his work assignment for the day. Plaintiff estimates that he worked an average of 50 or more hours per week.
51. Plaintiff was paid at the wage rate of \$11.00 an hour, plus overtime hours at the rate of time and a half his regular, or \$16.50 an hour.
52. However, Plaintiff was in complete disagreement with the number of hours paid to him for the following reasons: 1) Sometimes Plaintiff's paystubs showed less than 40 hours worked in a week period, although Plaintiff knew that he worked more than 40 hours; 2) there were a number of hours which constituted overtime, that were paid at the regular rate of \$11.00 an hour; 3) Defendant deducted 1 hour of lunch-time every day, but Plaintiff was unable to take any bona-fide lunch period.
53. Plaintiff is not in possession of time and payment records, but as per his best recollections, he always worked more than 40 hours in a week period. However, in many weeks Plaintiff was not paid for a substantial number of regular hours.
54. In addition, Defendant deducted from Plaintiff's wages, one hour of lunch time, regardless the fact that Plaintiff did not take bona-fide lunch breaks. These deducted lunch hours constitute unpaid regular wages.
55. In the present Complaint, Plaintiff is going to provide a good faith estimate, of unpaid wages considering only 5 hours weekly of improperly deducted lunch time. After Defendant provide time and payment records, Plaintiff will amend his

Statement of Claim to include every unpaid regular hour produced during Plaintiff's employment.

56. Plaintiff clocked in and out, and Defendant were able to track the hours worked by Plaintiff and other similarly situated individuals. Consequently, Defendant willfully failed to pay Plaintiff a substantial number of regular hours every week.

57. During the relevant period of employment, or 101 weeks, Plaintiff worked many hours in every week period, that were not compensated at any rate, not even at the minimum wage rate.

58. Therefore, Plaintiff was not paid his regular wages for all the hours that he worked in a week period, in violation of FLSA provisions.

59. The records, if any, concerning the number of hours actually worked by Plaintiff and all other employees, and the compensation actually paid to such employees should be in the possession and custody of Defendant. However, upon information and belief, Defendant did not maintain accurate and complete time records of hours worked by Plaintiff.

60. Defendant violated the record keeping requirements of FLSA, 29 CFR Part 516.

61. Prior to the completion of discovery and to the best of Plaintiff's knowledge, at the time of the filing of this complaint, Plaintiff's good faith estimate of unpaid wages are as follows:

*Please note that these are preliminary calculations, which will be adjusted after proper discovery.

*Florida minimum wage is higher than the Federal minimum wage. As per FLSA regulations the higher minimum wage applies.

a. Total amount of alleged unpaid wages:

Four Thousand Seventy-Eight Dollars and 25/100 (\$4,078.25)

b. Calculation of such wages:

Total weeks of employment: 101 weeks
Total relevant weeks of employment: 101 weeks
Total of weeks with lunch hour deduction: 101 weeks
Regular rate: \$11.00

A. Calculation unpaid hours 2016=49 weeks
FL minimum wage 2016 = \$8.05

$\$8.05 \times 5 \text{ lunch hours weekly} = \$40.25 \text{ weekly} \times 49 \text{ weeks} = \$1,972.25$

B. Calculations unpaid hours 2017=52 weeks
FL minimum wage 2017 = \$8.10

$\$8.10 \times 5 \text{ lunch hours weekly} = \$40.50 \text{ weekly} \times 52 \text{ weeks} = \$2,106.00$

Total A and B: \$4,078.25

c. Nature of wages:

This amount represents unpaid regular wages at Florida minimum wage rates.

62. Defendant FALCON FARMS unlawfully failed to pay minimum wages to Plaintiff.

Plaintiff seeks to recover any unpaid wages accumulated during the relevant employment period.

63. Defendant knew and/or showed reckless disregard of the provisions of the Act concerning the payment of minimum wages as required by the Fair Labor Standards Act and remains owing Plaintiff these minimum wages.

64. Defendant FALCON FARMS willfully and intentionally refused to pay Plaintiff minimum wages as required by the law of the United States and remain owing Plaintiff these minimum wages as set forth above.

65. Plaintiff has retained the law offices of the undersigned attorney to represent him in this action and is obligated to pay a reasonable attorneys' fee.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff JUAN A. GONZALEZ respectfully requests that this Honorable Court:

- A. Enter judgment for Plaintiff and against the Defendant FALCON FARMS on the basis of Defendant's willful violations of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. and other Federal Regulations; and
- B. Award Plaintiff actual damages in the amount shown to be due for unpaid minimum wages, with interest; and
- C. Award Plaintiff an equal amount in double damages/liquidated damages; and
- D. Award Plaintiff reasonable attorneys' fees and costs of suit; and
- E. Grant such other and further relief as this Court deems equitable and just and/or available pursuant to Federal Law.

JURY DEMAND

Plaintiff JUAN A. GONZALEZ and those similarly-situated demand trial by jury of all issues triable as of right by jury.

COUNT III:
FEDERAL STATUTORY VIOLATION PURSUANT TO 29 U.S.C. 215 (a)(3)
RETALIATION

66. Plaintiff JUAN A. GONZALEZ re-adopts each and every factual allegation as stated in paragraphs 1-23 of this complaint as if set out in full herein.

67. Defendant FALCON FARMS was and is engaged in interstate commerce as defined in §§ 3 (r) and 3(s) of the Act, 29 U.S.C. § 203(r) and 203(s) (1)(A). Upon information and belief, the annual gross revenue of the Employer/Defendant was at all times material hereto in excess of \$500,000 per annum. By reason of the foregoing, Defendant's business activities involve those to which the Fair Labor Standards Act applies. Therefore, there is FLSA enterprise coverage.

68. Plaintiff and those similarly-situated were employed by an enterprise engage in interstate commerce. Particularly, Plaintiff was a delivery driver, and through his daily activities, Plaintiff was engaged directly in interstate commerce. Therefore, there is FLSA enterprise coverage.

69. 29 U.S.C. § 206 (a) (1) states "...an employer must pay a minimum wage of \$5.15/hr to an employee who is engaged in commerce..." [29 U.S.C. § 206 (a) (1)].

70. 29 U.S.C. § 207 (a) (1) states, "if an employer employs an employee for more than forty hours in any work week, the employer must compensate the employee for hours in excess of forty at the rate of at least one and one-half times the employee's regular rate..."

71. Likewise, 29 U.S.C. 215(a)(3) states... it shall be unlawful for any person— "to discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter, or has testified or is about to testify in any such proceeding,....."

72. Defendant FALCON FARMS employed Plaintiff JUAN A. GONZALEZ, from approximately January 18, 2016 through December 26, 2017, or 101 weeks.

73. Plaintiff was hired to work as a local delivery driver with a wage rate of \$11.00 an hour. Plaintiff overtime rate should be \$16.50 an hour.
74. While employed by Defendant, Plaintiff had a very irregular schedule. Plaintiff worked 5 days per week, from 7:00 AM until the time he completed his work assignment for the day. Plaintiff estimates that he worked an average of 50 or more hours per week.
75. Plaintiff was paid at the wage rate of \$11.00 an hour, plus overtime hours at the rate of time and a half his regular, or \$16.50 an hour.
76. However, Plaintiff was in complete disagreement with the number of hours paid to him. Plaintiff was not paid for all his regular hours; he was not paid for overtime hours at the rate of time and one half his regular rate, and he suffered the illegal deduction of one hour of lunch time daily (5 hours weekly), regardless the fact that Plaintiff was unable to take any bona-fide lunch time.
77. Plaintiff clocked in and out, and Defendant was able to track the number of hours worked by Plaintiff and other similarly situated individuals.
78. Therefore, Defendant willfully failed to pay Plaintiff for regular hours and for overtime at the rate of time and a half his regular rate, for every hour that he worked in excess of forty (40), in violation of Section 7 (a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(a)(1)).
79. Upon any irregularity in his paystub, Plaintiff complained to his supervisor Juan Gabriel Gonzalez. Plaintiff complained multiple times about his missing and overtime hours to his supervisor, but the supervisor did not offer any valid explanation, and did not offer any solution to the problem.

80. More recently, Plaintiff complained to supervisor Juan Gabriel Gonzalez on or about November 27, 2017, and December 13, 2017, Plaintiff complained about illegal deduction of lunch hours, missing regular hours and overtime hours paid at the incorrect rate. The last time Plaintiff complained, Supervisor Juan Gabriel Gonzalez just answered in an angry tone: “Here, we pay like that, those are your hours for this check, take it or leave”.

81. These complaints constituted protected activity under 29 U.S.C. 215(a)(3)

82. During his employment with Defendant, Plaintiff was not paid for all hours worked, as established by the Fair Labor Standards Act. and he was not paid for overtime hours at the correct rate.

83. Plaintiff clocked in and out, and Defendant was able to track the number of hours worked by Plaintiff and other similarly situated individuals.

84. Therefore, Defendant willfully failed to pay Plaintiff overtime at the rate of time and a half his regular rate, for every hour that he worked in excess of forty (40), in violation of Section 7 (a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(a)(1)).

85. On or about December 26, 2017, Plaintiff was fired using pretextual reasons. On that date, Plaintiff had an argument with a co-worker, as a result of this incident Plaintiff was terminated by supervisor Juan Gabriel Gonzalez. Plaintiff is in the belief that he was terminated in retaliation to his multiple complaints about unpaid wages.

86. At all times during his employment, Plaintiff performed his work satisfactorily.

There was no reason other than a retaliatory action to terminate Plaintiff's employment with Defendant.

87. The termination of Plaintiff JUAN A. GONZALEZ by the Defendant was directly and proximately caused by Defendant's unjustified retaliation against Plaintiff because of his complaints about regular and overtime payment, in violation of Federal Law.

88. Moreover, Plaintiff's termination came just in temporal proximity after Plaintiff's participation in protected activity, on or about December 13, 2017.

89. Defendant FALCON FARMS willfully and maliciously retaliated against Plaintiff JUAN A. GONZALEZ by engaging in retaliatory actions that were materially adverse to a reasonable employee, and with the purpose to dissuade Plaintiff from exercising his rights under 29 U.S.C. 215(a)(3).

90. The motivating factor which caused Plaintiff JUAN A. GONZALEZ to be fired from the business, as described above was his complaint seeking regular and overtime wages from the Defendant. In other words, Plaintiff would not have been fired, but for his complains about overtime wages.

91. The Defendant's adverse actions against Plaintiff JUAN A. GONZALEZ were in direct violation of 29 U.S.C. 215 (a) (3) and, as a direct result, Plaintiff has been damaged.

92. Plaintiff JUAN A. GONZALEZ has retained the law offices of the undersigned attorney to represent him in this action and is obligated to pay a reasonable attorney's fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff JUAN A. GONZALEZ respectfully requests that this Honorable Court:

- A. Enter judgment declaring that the firing of Plaintiff JUAN A. GONZALEZ by Defendant FALCON FARMS was an unlawful act of retaliation in violation of 29 U.S.C. 215 (a) (3).
- B. Enter judgment against Defendant FALCON FARMS awarding Plaintiff JUAN A. GONZALEZ liquidated damages in an amount equal to the amount awarded as consequential damages;
- C. For all back wages from the date of discharge to the present date and an equal amount of back wages as liquidated damages
- D. Enter judgment awarding Plaintiff reasonable attorney's fees and costs of this suit; and
- E. Grant such other and further relief as this Court deems necessary and proper.

JURY DEMAND

Plaintiff JUAN A. GONZALEZ demands trial by jury of all issues triable as of right by jury.

Dated: This 13 day of July 2018.

Respectfully submitted,

By: /s/ Zandro E. Palma
ZANDRO E. PALMA, P.A.
Florida Bar No.: 0024031
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Miami, FL 33156
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Attorney for Plaintiff

EXHIBIT “A”

Earnings Statement

JUAN GONZALEZ

Company: OGD76 - FALCON FARMS INC

Emp #: A441

Pay Date: 02/15/2017

2330 NW 82ND AVE

Dept: DRV - Drivers

(305) 477-8088

Pay Basis: Hourly

Period Start: 01/24/2017

MIAMI, FL 33122

37.5

Earnings

	Rate	Hours/Units	Current Period	Year to Date
Regular	11.00	110.75	1,218.25	3,080.00
Overtime	16.50	88.91	1,467.02	2,189.56
Gross Pay		199.66	2,685.27	5,269.56

W/H Taxes	(S/4)	Federal W/H	Medicare	Social Security	
		301.06	38.94	166.49	419.44
					76.41
					326.71

Deductions	None	0.00	0.00
Net Pay		2,178.78	4,447.00

Check No.: 222229

Net Pay Distribution	Payroll Net Check	2,178.78	4,447.00
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Earnings Statement

JUAN GONZALEZ

Company: 06D76 - FALCON FARMS INC

Pay Date: 05/15/2017

Emp #: A441

Period Start: 05/01/2017

2330 NW 82ND AVE

Dept: DRV - Drivers

Period End: 05/15/2017

MIAMI, FL 33122

(305) 477-8088

Pay Basis: Hourly

Earnings	Rate	Hours/Units	Current Period	Year to Date
Regular	11.00	98.17	1,079.87	8,119.87
Overtime	16.50	130.10	2,146.65	6,478.58
Vacations	0.00	0.00	0.00	440.00
Gross Pay		228.27	3,226.52	15,038.45

W/H Taxes	Rate	Hours/Units	Current Period	Year to Date
(S/4) Federal W/H			436.37	1,105.30
Medicare			46.78	218.05
Social Security			200.04	932.38

Deductions	Rate	Hours/Units	Current Period	Year to Date
None			0.00	0.00

Net Pay 2,543.33 12,782.72

Check No.: 23789

Net Pay Distribution	Amount
Payroll Net Check	2,543.33
	12,782.72

Company: OGD76 - FALCON FARMIS INC

Date: 12/15/2017

Start: 11/24/2017

2330 NW 82ND AVE

End: 12/08/2017

MIAMI, FL 33122

(305) 477-8088

	Rate	Hours/Units	Current Period	Year to Date
Regular	11.00	94.88	1,043.68	18,424.34
Overtime	16.50	13.99	230.84	9,123.55
Vacations	0.00	0.00	0.00	440.00
Holidays	0.00	0.00	0.00	176.00
Hurricane	0.00	0.00	0.00	88.00

Gross Pay 108.87 1,274.52 28,251.89

Yes	S/4)	Federal W/H	Medicare	Social Security
		56.13	18.48	79.02
		1,613.91	409.63	1,751.62

None 0.00 0.00

Net Pay 1,120.89 24,476.73

Distribution	Payroll Net Check
	1,120.89
	24,476.73

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 JUAN A. GONZALEZ DEFENDANTS FALCON FARMS, INC.

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Attorneys (If Known) The Law Office of Zandro E. Palma, P.A. 9100 S. Dadeland Blvd., Ste 1500, Miami, FL 33156 (305-446-1500)

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

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

1 U.S. Government Plaintiff 2 U.S. Government Defendant 3 Federal Question (U.S. Government Not a Party) 4 Diversity (Indicate Citizenship of Parties in Item III) PTF DEF 1 Citizen of This State 2 Citizen of Another State 3 Citizen or Subject of a Foreign Country 4 Incorporated or Principal Place of Business In This State 5 Incorporated and Principal Place of Business In Another State 6 Foreign Nation

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

CONTRACT 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 CIVIL RIGHTS 440 Other Civil Rights 441 Voting 442 Employment 443 Housing/Accommodations 445 Amer. w/Disabilities - Employment 446 Amer. w/Disabilities - Other 448 Education REAL PROPERTY 210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property FORFEITURE/PENALTY 625 Drug Related Seizure of Property 21 USC 881 690 Other LABOR 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 IMMIGRATION 462 Naturalization Application 465 Other Immigration Actions SOCIAL SECURITY 861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g)) FEDERAL TAX SUITS 870 Taxes (U.S. Plaintiff or Defendant) 871 IRS—Third Party 26 USC 7609 OTHER STATUTES 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 [X] NO b) Related Cases [] YES [X] NO JUDGE: DOCKET NUMBER:

VII. CAUSE OF ACTION 29 U.S.C 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):

LENGTH OF TRIAL via 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 \$ CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE DATE 7/13/2018 SIGNATURE OF ATTORNEY OF RECORD Zandro E. Palma, Esq.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

JUAN A. GONZALEZ

Plaintiff

v.

FALCON FARMS, INC

Defendant

)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) FALCON FARMS, INC
through its Registered Agent:
JAIRO RENGIFO,
2330 N.W. 82ND AVENUE
MIAMI, FL 33122

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:

The Law Office of Zandro E. Palma, P.A.
9100 South Dadeland Boulevard
Suite 1500
Miami, FL 33156

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: [Falcon Farms Facing Former Employee's Unpaid Wage Claims](#)
