

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.

ERNESTO HIDALGO DIAZ, and all
others similarly situated

Plaintiff,

vs.

INTERAMERICAN MEDICAL
CENTER GROUP, LLC, a Florida
Limited Liability Company,

Defendant.

COMPLAINT

COMES NOW Plaintiff, ERNESTO HIDALGO DIAZ, by and through his undersigned attorney, and hereby sues Defendant, INTERAMERICAN MEDICAL CENTER GROUP, LLC (herein referred to as “INTERAMERICAN”), a Florida Corporation, and as grounds alleges:

JURISDICTIONAL ALLEGATIONS

1. This is an action to recover monetary damages, liquidated damages, interests, costs and attorney’s fees for willful violations of overtime wages under the laws of the United States, the Fair Labor Standards Act, 29 U.S.C. §§201-219) (“the FLSA”).
2. Plaintiff is a resident of Miami-Dade County, Florida, within the jurisdiction of this Honorable Court.
3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1331 because this action involves the Fair Labor Standards Act, 29 U.S.C. §§201, *et seq.*, a federal statute.
4. Venue is proper in this district pursuant to 28 U.S.C. §1391(c) and (d).

5. Defendant INTERAMERICAN is a Florida corporation which regularly conducts business within the Southern District of Florida by operating medical clinics.

6. INTERAMERICAN is and, at all times pertinent to this Complaint, was engaged in interstate commerce. At all times pertinent to this Complaint, CLINICAL operated as an organization which sells and/or markets and/or handles its services and/or goods and/or materials to customers from throughout the United States and also provides its services for goods sold and transported from across state lines of numerous other states, and CLINICAL 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 its employees.

7. Upon information and belief, the annual gross revenue of INTERAMERICAN was at all times material hereto in excess of \$500,000.00 per annum. Upon information and believe, Defendant CLINICAL's gross annual revenue is expected to be in excess of \$500,000, for the year 2017.

8. By reason of the foregoing, INTERAMERICAN is and was, during all times hereafter mentioned, an enterprise engaged in commerce or in the production of goods for commerce as defined in §3(r) and 3(s) of the FLSA, 29 U.S.C. §203(r) and 203(s) and/or Plaintiff is within interstate commerce.

COUNT I: UNPAID OVERTIME WAGES

9. Plaintiff re-alleges and re-avers paragraphs 1 through 8 as fully set forth herein.

10. Plaintiff was employed by the Defendant as a patient driver for the medical clinic.

11. Plaintiff was employed from on or about May, 2017 through October, 2017.

12. Plaintiff worked an average of approximately 47.5 hours per week. Plaintiff was occasionally paid small amounts of overtime hours but typically was not paid overtime wages when he worked more than 40 hours per week.

13. Plaintiff was paid a rate of \$10.00 per hour. Defendant is required to compensate Plaintiff for overtime hours at a rate of \$15.00 per hour.

14. Defendant was required to pay Plaintiff overtimes wages. Plaintiff was not paid overtime wages at a rate of time and one half, when he worked more than 40 hours per week.

15. The FLSA requires that employees be paid overtime hours worked in excess of forty (40) hours weekly at a rate of time-and-one-half the regular rate. At all times material hereto, Defendant 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 performed services and worked in excess of the maximum hours provided by the FLSA but no provision was made by the Defendant to properly pay him at the rate of time and one-half for all hours worked in excess of forty (40) per workweek as provided in the FLSA.

16. Defendant knew and/or showed reckless disregard of the provisions of the FLSA concerning the payment of overtime wages as required by the Fair Labor Standards Act. Defendant was aware of Plaintiff's work schedule and further aware that Plaintiff was working more than 40 hours per week. Defendant was aware of Plaintiff's pay records and the rate that he was being paid for his hours. Defendant was aware of the off-the-clock work that Plaintiff was required to perform and the automatic deductions to his lunch. Despite Defendant having such knowledge, Defendant did not alter its pay practices and continued to fail to pay Plaintiff, and those similarly situated, the overtime wages he was due.

17. The similarly situated individuals are those individuals whom were employed by the Defendant as drivers like the Plaintiff, and whom were not paid overtime wages.

18. Plaintiff has retained the law offices of the undersigned attorneys to represent him in this action and is entitled to award of reasonable attorney's fees.

WHEREFORE, Plaintiff requests compensatory and liquidated damages, and reasonable attorney's fees and costs from Defendants, pursuant to the Fair Labor Standards Act as cited above, to be proven at the time of trial for overtime owing from Plaintiff's entire employment period with Defendant, or as much as allowed by the Fair Labor Standards Act, whichever is greater, along with court costs. In the event that Plaintiff does not recover liquidated damages, then Plaintiff will seek an award of prejudgment interest for the unpaid overtime, and any and all other relief which this Court deems reasonable under the circumstances.

JURY DEMAND

Plaintiff and those similarly-situated demands trial by jury of all issues triable as of right by jury.

Dated: November 21, 2017

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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 ERNESTO HIDALGO DIAZ DEFENDANTS INTERAMERICAN MEDICAL CENTER GROUP LLC

(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) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)

(c) Attorneys (Firm Name, Address, and Telephone Number) Mamane Law LLC, 10800 Biscayne Blvd., Suite 350A, Miami, Florida 33161, Tel: 305-773-6661

(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 [X] 3 Federal Question (U.S. Government Not a Party) 2 U.S. Government Defendant [] 4 Diversity (Indicate Citizenship of Parties in Item III) Citizen of This State Citizen of Another State Citizen or Subject of a Foreign Country PTF DEF 1 1 2 2 3 3 4 4 5 5 6 6

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Labor, and Tax Suits.

V. ORIGIN (Place an "X" in One Box Only) [X] 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 [] 7 Appeal to District Judge from Magistrate Judgment [] 8 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 unpaid overtime wages, FLSA 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 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 \$ CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE SIGNATURE OF ATTORNEY OF RECORD

November 21, 2017 /s/ Isaac Mamane

FOR OFFICE USE ONLY

RECEIPT # AMOUNT IFP JUDGE MAG JUDGE

UNITED STATES DISTRICT COURT

for the
Southern District of Florida

ERNESTO HIDALGO DIAZ, and all others
similarly situated

Plaintiff,

vs.

INTERAMERICAN MEDICAL CENTER
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Company,

Defendants.

SUMMONS IN A CIVIL ACTION

To:

INTERAMERICAN MEDICAL CENTER GROUP, LLC
c/o Jessica Garcia, registered agent
15105 NW 77th Ave., 4th Floor
Miami Lakes, Florida 33014

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:

MAMANE LAW LLC
10800 Biscayne Blvd., Suite 350A
Miami, Florida 33161

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: [Interamerican Medical Center Group Facing Unpaid OT Claims](#)
