

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.:

REINALDO LEON,
and other similarly-situated individuals,

Plaintiff (s),
v.

SUGAR FACTORY OCEAN DRIVE LLC,
DOWN AND DIRTY TACOS & TEQUILA BAR
OCEAN DRIVE LLC,
SHARED SERVICES FLORIDA LLC.

Defendants,
_____ /

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

COMES NOW the Plaintiff REINALDO LEON, and other similarly-situated individuals, by and through the undersigned counsel, and hereby sues Defendants SUGAR FACTORY OCEAN DRIVE LLC, DOWN AND DIRTY TACOS & TEQUILA BAR OCEAN DRIVE LLC, and SHARED SERVICES FLORIDA LLC, 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 REINALDO LEON is a resident of Miami-Dade County, Florida, within the jurisdiction of this Honorable Court. Plaintiff is a covered employee for purposes of the Act.

3. Defendants SUGAR FACTORY OCEAN DRIVE LLC, DOWN AND DIRTY TACOS & TEQUILA BAR OCEAN DRIVE LLC, and SHARED SERVICES FLORIDA LLC are Foreign corporations, registered to do business in Florida. Defendants have place of business in Miami-Dade County, Florida, where Plaintiff worked for Defendants. At all times material hereto, Defendants were and are engaged in interstate commerce.
4. Pursuant to 29 U.S.C. § 203 (r)(1) and pursuant to 29 C.F.R. §791.2, Defendants SUGAR FACTORY OCEAN DRIVE LLC, DOWN AND DIRTY TACOS & TEQUILA BAR OCEAN DRIVE LLC, and SHARED SERVICES FLORIDA LLC, are a joint enterprise, and joint employers of Plaintiff.

ALLEGATIONS COMMON TO ALL COUNTS

5. This cause of action is brought by Plaintiff as a collective action to recover from Defendants 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") on behalf of Plaintiff and all other current and former employees similarly situated to Plaintiff ("the asserted class") and who worked in excess of forty (40) hours during one or more weeks on or after December 2015, (the "material time") without being properly compensated.
6. Corporate Defendants SUGAR FACTORY OCEAN DRIVE LLC, DOWN AND DIRTY TACOS & TEQUILA BAR OCEAN DRIVE LLC, and SHARED SERVICES FLORIDA LLC are business that operate several restaurants in the Miami area.
7. Pursuant to 29 U.S.C. § 203 (r)(1), Defendants SUGAR FACTORY OCEAN DRIVE LLC, DOWN AND DIRTY TACOS & TEQUILA BAR OCEAN DRIVE LLC, and

SHARED SERVICES FLORIDA LLC, were and are now, a joint enterprise because:

1) the three companies had the same or related business activities; 2) the three companies operate out of the same location; 3) the three companies shared facilities, equipment and supplies; 4) SUGAR FACTORY OCEAN DRIVE LLC, DOWN AND DIRTY TACOS & TEQUILA BAR OCEAN DRIVE LLC, and SHARED SERVICES FLORIDA LLC, operated as a single unit, for a common business purpose; 5) Between SUGAR FACTORY OCEAN DRIVE LLC, DOWN AND DIRTY TACOS & TEQUILA BAR OCEAN DRIVE LLC, and SHARED SERVICES FLORIDA LLC, existed unified operation and common control because the same individual controlled individuals controlled the day to day operations of the two companies, and they operated as a single unit for a common business purpose; 6) both corporations had interdependent financial interest. because each company operated the same related business.

8. Pursuant 29 C.F.R. §791.2, SUGAR FACTORY OCEAN DRIVE LLC, DOWN AND DIRTY TACOS & TEQUILA BAR OCEAN DRIVE LLC, and SHARED SERVICES FLORIDA LLC, were joint employers because: 1) SUGAR FACTORY OCEAN DRIVE LLC, DOWN AND DIRTY TACOS & TEQUILA BAR OCEAN DRIVE LLC, and SHARED SERVICES FLORIDA LLC, through its owners/partners/managers had equal and absolute control over the Plaintiff and other employees similarly situated; 2) The same individuals assigned duties to Plaintiff and other employees similarly situated; 3) SUGAR FACTORY OCEAN DRIVE LLC, DOWN AND DIRTY TACOS & TEQUILA BAR OCEAN DRIVE LLC, and SHARED SERVICES FLORIDA LLC, through their managers, jointly and equally

determined terms and employment conditions of Plaintiff and other employees similarly situated; 4) The work of Plaintiff's benefited the three corporations. 5) The work performed by Plaintiff and other similarly situated individuals were an integral part of the business operation of SUGAR FACTORY OCEAN DRIVE LLC, DOWN AND DIRTY TACOS & TEQUILA BAR OCEAN DRIVE LLC, and SHARED SERVICES FLORIDA LLC; 6) Plaintiff's wages were paid with checks of SUGAR FACTORY OCEAN DRIVE LLC, DOWN AND DIRTY TACOS & TEQUILA BAR OCEAN DRIVE LLC, and SHARED SERVICES FLORIDA LLC.

9. Therefore, because the work performed by Plaintiff and other similarly-situated individuals, simultaneously benefited all Defendants and directly or indirectly furthered their joint interest, Defendants SUGAR FACTORY OCEAN DRIVE LLC, DOWN AND DIRTY TACOS & TEQUILA BAR OCEAN DRIVE LLC, and SHARED SERVICES FLORIDA LLC are a joint enterprise as defined in 29 U.S.C. § 203 (r)(1), and they are also joint employers as defined in 29 C.F.R. §791.2.
10. Defendants SUGAR FACTORY OCEAN DRIVE LLC, DOWN AND DIRTY TACOS & TEQUILA BAR OCEAN DRIVE LLC, and SHARED SERVICES FLORIDA LLC, hereinafter will be called collectively SUGAR FACTORY or corporate Defendant.
11. Defendant SUGAR FACTORY employed Plaintiff REINALDO LEON as non-exempt employee, from approximately December 15, 2015 through October 15, 2016, or 43 weeks. Plaintiff was hired to work as a cook, to perform food preparations, and do general restaurant work.

12. Approximately during the first two weeks of employment, Plaintiff worked at Sugar Factory American Brasserie located at 1144 Ocean Drive, Miami Beach Florida 33139, where he was paid at the rate of \$11.00 an hour plus overtime hours, at the correct rate.
13. After that period Plaintiff worked at Down And Dirty Tacos & Tequila Bar, located at 1144 Ocean Drive, Miami Beach Florida 33139.
14. Plaintiff method of payment was changed to a salary, and he was paid bi-weekly \$1,300.00, or \$650.00 weekly, Plaintiff worked 60 hours per week which resulted in a hourly rate of \$10.83.
15. Plaintiff had a **regular** schedule, and he worked 6 days per week. Plaintiff had usually Wednesdays or Thursdays off; but he worked 6 days per week from 10:00 AM to 8:00 PM (10 hours daily) for a total of 60 hours weekly. Plaintiff was unable to take bona fide lunch breaks.
16. Plaintiff clock in and out, whenever possible, because the system was always malfunctioning. Plaintiff's paystubs did not show the number of hours worked.
17. While employed by Defendant, Plaintiff worked 60 hours every week. However, Plaintiff was not paid for overtime hours. Plaintiff was paid for overtime hours at his regular rate.
18. Therefore, Defendant failed to pay Plaintiff for overtime hours at the rate of time and a half his regular rate as provided by the Fair Labor Standards Act (FLSA).
19. Plaintiff was in disagreement with his paycheck and complained about the missing overtime payment, to his superiors many times. Defendants did not correct the problem.
20. As a result, Plaintiff resigned from his position on or about October 15, 2016.

21. Plaintiff REINALDO LEON intends to recover unpaid half-time overtime wages, liquidated damages, and any other relief as allowable by law.
22. 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; AGAINST ALL DEFENDANTS

23. Plaintiff REINALDO LEON re-adopts each and every factual allegation as stated in paragraphs 1-22 above as if set out in full herein.
24. 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."
25. Defendants SUGAR FACTORY OCEAN DRIVE LLC, DOWN AND DIRTY TACOS & TEQUILA BAR OCEAN DRIVE LLC, and SHARED SERVICES FLORIDA LLC, are a joint enterprise as defined in 29 U.S.C. § 203 (r)(1), and they are also joint employers as defined in 29 C.F.R. §791.2.

26. Defendants SUGAR FACTORY OCEAN DRIVE LLC, DOWN AND DIRTY TACOS & TEQUILA BAR OCEAN DRIVE LLC, and SHARED SERVICES FLORIDA LLC, hereinafter will be called collectively SUGAR FACTORY or corporate Defendant.

27. The Employer SUGAR FACTORY, at all times pertinent to this Complaint, was engaged in interstate commerce or in the production of goods for commerce as defined in §§ 3 (r) and 3(s) of the Act, 29 U.S.C. § 203(r) and 203(s). The Defendant is a foreign corporation which operates restaurants across State line. Defendant have more than two employees engaged in interstate commerce. Defendant through and through the business activity, affects interstate 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 engage 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.

28. The Plaintiff was employed by an enterprise engaged in interstate commerce, and likewise Plaintiff's work affected interstate commerce. Plaintiff was a cook and he performed general restaurant work, 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.

29. Defendant SUGAR FACTORY employed Plaintiff REINALDO LEON as non-exempt employee, from approximately December 15, 2015 through October 15, 2016, or 43 weeks. Plaintiff was hired to work as a cook and to perform general restaurant work.
30. During the first two Plaintiff worked at Sugar Factory American Brasserie located at 1144 Ocean Drive, Miami Beach Florida 33139, and he was paid at the rate of \$11.00 an hour plus overtime hours, at the correct rate.
31. After that period Plaintiff worked at Down And Dirty Tacos & Tequila Bar, located at 1144 Ocean Drive, Miami Beach Florida 33139.
32. Plaintiff was paid a bi-weekly salary of \$1,300.00, or \$650.00 weekly. Plaintiff clocked in and out, whenever possible, because the system was always malfunctioning. Plaintiff's paystubs did not show the number of hours worked.
33. Plaintiff had a regular schedule, and he worked 6 days per week. Plaintiff had usually Wednesdays, or Thursdays off; but he worked 6 days per week from 10:00 AM to 8:00 PM (10 hours daily) for a total of 60 hours weekly. Plaintiff was unable to take bona fide lunch breaks.
34. Plaintiff worked 60 hours every week. However, Plaintiff was not paid for overtime hours. Plaintiff was paid just for 40 hours every week.
35. Therefore, Defendants failed to pay Plaintiff for overtime hours at the rate of time and a half his regular rate as provided by the Fair Labor Standards Act (FLSA).
36. The records, if any, concerning the number of hours actually worked by Plaintiff REINALDO LEON, 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 and complete time records of hours worked by Plaintiff and other employees in the asserted class.

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

38. 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:

a. Total amount of alleged unpaid wages:

Four Thousand Four Hundred Forty-Four Dollars and 50/100 (\$4,444.40)

b. Calculation of such wages:

Total weeks of employment: 43 weeks
Total relevant weeks of employment: 41 weeks
Total hours worked: 60 hours weekly
Total Overtime hours: 20 hours weekly
Paid: \$650.00:60 hours= \$10.83
Regular rate: \$10.83:2=\$5.42 half-time

\$5.42 half-time rate x 20 O/T hours=\$108.40 weekly
\$108.40 weekly x 41 weeks = \$4,444.40

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

This amount represents the unpaid half-time overtime.

39. At all times material hereto, the Employers/Defendants SUGAR FACTORY 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 Defendants 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.

40. Defendant SUGAR FACTORY 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 Defendants as set forth above, and Plaintiff and those similarly-situated are entitled to recover double damages.
41. Defendants SUGAR FACTORY, willfully and intentionally refused to pay Plaintiff overtime wages as required by the law of the United States as set forth above and remain owing Plaintiff these overtime wages since the commencement of Plaintiff's employment with Defendants, as set forth above.
42. 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 REINALDO LEON and those similarly-situated individuals respectfully request that this Honorable Court:

- A. Enter judgment for Plaintiff REINALDO LEON and other similarly-situated and against the Defendants SUGAR FACTORY, INC., on the basis of Defendants' 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 REINALDO LEON and those similarly-situated demand trial by jury of all issues triable as of right by jury.

Dated: December 15, 2017.

Respectfully submitted,

By: /s/ Zandro E. Palma
ZANDRO E. PALMA, P.A.
Florida Bar No.: 0024031
9100 S. Dadeland Blvd.
Suite 1500
Miami, FL 33156
Telephone: (305) 446-1500
Facsimile: (305) 446-1502
zep@thepalmalawgroup.com
Attorney 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 THE REVERSE OF THE FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS

REINALDO LEON

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

(c) Attorney's (Firm Name, Address, and Telephone Number)

The Law Office of Zandro E. Palma, P.A.
9100 South Dadeland Blvd., Suite 1500, Miami, FL 33156
Tel: (305) 446-1500

DEFENDANTS

SUGAR FACTORY OCEAN DRIVE LLC, et al

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

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

Attorneys (If Known)

(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)

- [] 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)

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

Table with columns for PTF and DEF for Citizen of This State, Citizen of Another State, and Citizen or Subject of a Foreign Country, with sub-columns for Incorporated or Principal Place of Business.

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

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, OTHER STATUTES.

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

VI. RELATED/RE-FILED CASE(S).

a) Re-filed Case [] YES [X] NO b) Related Cases [] YES [X] NO
(See instructions second page): 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.
LENGTH OF TRIAL via 3 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

[X] 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

SIGNATURE OF ATTORNEY OF RECORD /s/ Zandro E. Palma, Esq.

DATE December 15, 2017

FOR OFFICE USE ONLY

AMOUNT RECEIPT # IFP

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

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

REINALDO LEON

Plaintiff

v.

SUGAR FACTORY OCEAN DRIVE LLC, et al

Defendant

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)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Down and Dirty Tacos & Tequila Bar Ocean Drive LLC through Registered Agent:

F&L CORP.
ONE INDEPENDENT DRIVE
SUITE 1300
JACKSONVILLE, FL 32202

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

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

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

REINALDO LEON

Plaintiff

v.

SUGAR FACTORY OCEAN DRIVE LLC, et al

Defendant

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) SHARED SERVICES FLORIDA LLC. through its Registered Agent:

F&L CORP.
ONE INDEPENDENT DRIVE
SUITE 1300
JACKSONVILLE, FL 32202

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

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

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

REINALDO LEON

Plaintiff

v.

SUGAR FACTORY OCEAN DRIVE LLC, et al

Defendant

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) SUGAR FACTORY OCEAN DRIVE LLC through its Registered Agent:

F&L CORP.
ONE INDEPENDENT DRIVE
SUITE 1300
JACKSONVILLE, FL 32202

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: [Three Miami-Area Restaurant Cos. Named in FLSA Class Action Lawsuit](#)
