

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO.:**

SERGIO LOPEZ, on behalf of himself  
and others similarly situated,

Plaintiff,

v.

RANCHO CHICO OF JUPITER, LLC,  
a Florida limited liability company;  
RANCHO CHICO OF TEQUESTA, LLC,  
a Florida limited liability company;  
RANCHO CHICO OF STUART, LLC,  
a Florida limited liability company;  
RANCHO CHICO OF ST CLOUD, LLC.,  
a Florida limited liability company; and,  
SALVADOR GUTIERREZ, an individual,

Defendants.

\_\_\_\_\_ /

**COMPLAINT**

Plaintiff, SERGIO LOPEZ (“Plaintiff”), on his own behalf and on behalf of all others similarly situated to him, hereby sues Defendants, RANCHO CHICO OF JUPITER, LLC, a Florida limited liability company; RANCHO CHICO OF TEQUESTA, LLC, a Florida limited liability company; RANCHO CHICO OF STUART, LLC, a Florida limited liability company; RANCHO CHICO OF ST CLOUD, LLC., a Florida limited liability company; (hereinafter collectively “RANCHO CHICO”), and, SALVADOR GUTIERREZ, an individual, (“GUTIERREZ”), and states as follows:

**INTRODUCTION**

1. Plaintiff brings this action under the overtime wage provisions of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 201 *et. seq.* (“FLSA”), and brings said

action on behalf of himself and all others similarly situated and seeks to recover from the Defendants unpaid 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).

### **JURISDICTION**

2. The jurisdiction of the Court over this controversy is based on 29 U.S.C. §216(b) and 28 U.S.C. § 1331.

### **VENUE**

3. The venue of this Court over this controversy is based on the following:
- a. The unlawful employment practices alleged herein occurred and/or were committed within Palm Beach County, Florida; and,
  - b. The Defendants were and continue to be Florida limited liability companies and an individual doing business within the Southern District of Florida.

### **CONDITIONS PRECEDENT**

4. Plaintiff has complied with all conditions precedent in this case, or they have been waived.

### **PARTIES**

5. At all times material hereto, LOPEZ did and continues to reside within the Southern District of Florida, and is in fact a resident of Palm Beach County, Florida.

6. 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 Defendants, who are or were subject to the payroll practices and procedures described in the paragraphs below.

7. Defendants are Florida corporations and an individual Florida resident, all of whom, at all times material, conducted substantial and continuous business in the Southern District of Florida, and are subject to the laws of the United States and of the State of Florida.

8. At all times material hereto, all of the Defendants each and collectively constituted an “employer” within the meaning of 29 U.S.C. § 203(d) of the Fair Labor Standards Act.

9. At all times material hereto, Plaintiff was an “employee” of Defendants within the meaning of the FLSA.

10. At all times material hereto, the corporate Defendants were and continue to be corporations organized under the laws of the State of Florida.

11. At all times material hereto, Defendants were engaged in operating restaurants open to the general public in Palm Beach County and within the Southern District of Florida, and elsewhere in Florida.

12. At all times material hereto, the corporate Defendants were and continue to be engaged in interstate commerce, and each and together are enterprises engaged in interstate commerce pursuant to 29 U.S.C. § 203(r) and (s) of the Fair Labor Standards Act.

13. During all times relevant to this action, Plaintiff and those similarly situated were non-exempt employees of Defendants who were subject to the payroll practices and procedures described herein and worked in excess of forty (40) hours during one or more workweeks within three (3) years of the filing of this Complaint.

14. During the course of his employment with Defendants, Plaintiff regularly and substantially utilized instrumentalities of interstate commerce and was engaged in commerce within the meaning of the FLSA.

15. Upon information and belief, at all times material hereto the annual gross revenue of Defendants was in excess of \$500,000 per annum during the relevant time period(s).

16. At all times material hereto, the work performed by the Plaintiff was directly essential to the business performed by Defendants.

17. At all times material hereto, the individual Defendant owned, operated, and controlled the corporate Defendants as well as decided how Plaintiff and others similarly situated were compensated and is therefore an “employer” within the meaning of the FLSA.

18. This Complaint seeks to hold the Defendants liable for violations of wage and hour provisions of the Fair Labor Standards Act because at all times material to this Complaint, the Defendants failed to comply with 29 U.S.C. § 201-219 in that Plaintiff and current and former similarly situated employees performed services for Defendants for which no provision was made to properly pay FLSA-mandated overtime wages.

#### **GENERAL FACTUAL ALLEGATIONS**

19. During the time period relevant to this action Plaintiff worked for Defendants at their restaurant(s) located in Jupiter, Florida as a non-exempt server/waitperson between approximately April 2006, and April 2016.

20. At all times material to this Complaint, Defendants paid Plaintiff and other similarly situated employees a flat salary each pay period, regardless of the number of hours worked, a pay structure in violation of the FLSA given the non-exempt nature of the position held by Plaintiff and those similarly situated.

21. In the course of their employment with Defendants, Plaintiff and those similarly situated worked the number of hours required of them, but were not paid time and one-half for all hours and parts of hours worked in excess of forty (40) during a workweek.

22. Defendants were aware that Plaintiff and others similarly situated were working in excess of forty (40) hours during a workweek.

23. Defendants violated, and upon information and belief, continue to violate the FLSA's provisions regarding maximum hours and overtime wages.

24. By reason of the willful and unlawful acts of the Defendant, all Plaintiffs (Plaintiff and those similarly situated to him who may later opt into this action) have suffered damages plus incurred costs and reasonable attorneys' fees.

25. Plaintiff has retained the undersigned legal counsel to prosecute this action on his behalf, and has agreed to pay them a reasonable fee for their services.

26. Plaintiff is entitled to his reasonable attorneys' fees and costs if he is the prevailing party in this action.

**COUNT I**

**VIOLATION OF 29 U.S.C. §§ 207, 216(b)**  
**OVERTIME COMPENSATION**

27. LOPEZ re-alleges and re-avers paragraphs 1 through 26 of this Complaint as if fully set forth herein.

28. LOPEZ and others similarly situated were entitled to be paid, pursuant to the FLSA, at the rate of time and one-half of their effective hourly rate for the hours that they worked in excess of forty (40) hours in any workweek.

29. Due to intentional, willful, and unlawful acts of Defendants, Plaintiff and others similarly situated have suffered damages in lost compensation for the time they worked over forty (40) hours per week without receiving overtime compensation, plus liquidated damages.

30. LOPEZ and others similarly situated are entitled to an award of their reasonable attorneys' fees and cost pursuant to 29 U.S.C. § 216(b).

31. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA.

**WHEREFORE**, Plaintiff LOPEZ and others similarly situated, respectfully request that judgment be entered in their favor and against Defendants:

- a. Declaring that the acts and practices complained of herein are in violation of the maximum hour provisions of the FLSA;
- b. Awarding Plaintiff overtime compensation and an equal amount as liquidated damages;
- c. Awarding the Plaintiff reasonable attorneys' fees, costs, and expenses of this litigation pursuant to 29 U.S.C. § 216(b) or any other source of legal entitlement;
- d. Awarding Plaintiff post judgment interest and;

- e. Ordering any other relief that this Court deems just and proper.

**JURY DEMAND**

Plaintiff demands trial by jury for all counts so triable by right.

Dated: September 25, 2017  
Boca Raton, Florida

Respectfully submitted,

BY: s/Dion J. Cassata  
Dion J. Cassata  
Fla. Bar No. 672564  
*dion@cassatalaw.com*

CASSATA LAW, P.A.  
Boca Crown Centre  
7999 North Federal Highway, Suite 200  
Boca Raton, Florida 33487

Telephone: (954) 364-7803  
Facsimile: (954) 251-4787

*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 THE REVERSE OF THIS FORM.)

**I. (a) PLAINTIFF(S)**

SERGIO LOPEZ

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF  
(EXCEPT IN U.S. PLAINTIFF CASES)

**PALM BEACH County,  
SOUTHERN DISTRICT OF FLORIDA**

**DEFENDANT(S)**

RANCHO CHICO OF JUPITER, LLC;  
RANCHO CHICO OF TEQUESTA, LLC;  
RANCHO CHICO OF STUART, LLC;  
RANCHO CHICO OF ST CLOUD, LLC.,  
; and, SALVADOR GUTIERREZ, an individual,  
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)**

Cassata Law, P.A., 7999 N. Federal Hwy, Suite 200,  
Boca Raton, Florida 33487, (954) 364-7803

**ATTORNEYS (IF KNOWN)**

**(d) CIRCLE COUNTY WHERE ACTION AROSE**

MONROE, BROWARD, **PALM BEACH**, DADE, 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
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicates 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                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. 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)

**THIS SUIT SEEKS A COLLECTIVE ACTION TO REMEDY VIOLATIONS OF THE FAIR LABOR STANDARDS ACT, 29 U.S.C. § 201 et seq., (Overtime).**

**IVA. 2-3 days estimated (for both sides) to try entire case**

**V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)**

CONTRACT	TORT	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<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"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liab.	<b>PERSONAL INJURY</b> <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 <input type="checkbox"/> 360 Product Liability Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <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	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug-Related Seizure of Prop. 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (13958) <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)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodity/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Econ. Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determ. Equal Access/Justice <input type="checkbox"/> 950 Const. of State Statute <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Eject. <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Prop.	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus and Other <input type="checkbox"/> 550 Other			

**VI. ORIGIN**

(PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

**VII. REQUESTED IN COMPLAINT**

CHECK IF THIS IS A **CLASS ACTION DEMAND \$**  
 UNDER F.R.C.P. 23 (THIS SUIT SEEKS TO BECOME A COLLECTIVE ACTION)

CHECK YES only if demanded in complaint:  
**JURY DEMAND: YES  NO**

**VIII. RELATED CASE(S) IF ANY** None

(See instructions)

**JUDGE**

**DOCKET NO.**

**DATE**

SEPTEMBER 25, 2017

**SIGNATURE OF ATTORNEY OF RECORD**

*s/Dion J. Cassata*

UNITED STATES DISTRICT COURT  
S/F 1-2  
REV. 9/94

FOR OFFICE USE ONLY: Receipt No. \_\_\_\_\_  
Date Paid: \_\_\_\_\_

Amount: \_\_\_\_\_  
M/IFP: \_\_\_\_\_



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

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v.

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a Florida limited liability company;  
RANCHO CHICO OF ST CLOUD, LLC.,  
a Florida limited liability company; and,  
SALVADOR GUTIERREZ, an individual,

Defendants.

SUMMONS IN A CIVIL ACTION

**To: SALVADOR GUTIERREZ  
4080 SOUTH 25TH STREET  
FORT PIERCE, FL 34981**

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:

**CASSATA LAW, P.A.  
7999 N. Federal Highway, Suite 200  
Boca Raton, FL 33487  
Telephone: (954) 364-7803**

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*

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SALVADOR GUTIERREZ, an individual,

Defendants.

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**SUMMONS IN A CIVIL ACTION**

**To:** RANCHO CHICO OF JUPITER, LLC

**Registered Agent:** Shiotani & Raley Tax and Accounting Services, Inc.  
1391 NW St. Lucie West Blvd., Suite 191  
Port St Lucie, FL 34986

A lawsuit has been filed against you.

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Defendants.

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**SUMMONS IN A CIVIL ACTION**

**To:** RANCHO CHICO OF ST CLOUD, LLC

**Registered Agent:** Shiotani & Raley Tax and Accounting Services, Inc.  
1391 NW St. Lucie West Blvd., Suite 191  
Port St Lucie, FL 34986

A lawsuit has been filed against you.

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Defendants.

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Port St Lucie, FL 34986

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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: [Former Rancho Chico Restaurant Worker Seeks Unpaid OT](#)

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