

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

2017 FEB 21 PM 4:27
US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

JUANA MATA, on her own
behalf and others similarly situated,

Plaintiff,

Case Number: 6:17-CV-299-ORL-
28-DCI

v.

HAWAIIAN COURT HOSPITALITY, LLC,
PINNACLE HOLDINGS X, LLC,
EOC SOLUTIONS, INC.
M&M CLEANING, USA, INC. and
VASANT PATEL, individually,

Defendant.

_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

1. Plaintiff was an employee of all Defendants, and brings this action for unpaid wages, and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. § 201-216 (the "FLSA").

2. Plaintiff worked as an hourly laborer for Defendants and performed related, non-exempt activities for Defendant in Seminole and Orange County, Florida.

3. Plaintiff was not paid overtime for all of the hours she worked beyond 40 in a single workweek. In addition, Plaintiff was not paid at least the minimum wage for all hours worked. Plaintiff was employed as a housekeeper for Defendants. Instead, Plaintiff was paid approximately three dollars per room. However, due to the sheer volume of the work assigned to Plaintiff by Defendants, Plaintiff routinely worked more than forty hours per week and Defendants paid

Plaintiff at a rate of pay that was assured to violate both minimum and overtime laws in regards to wages during the period of time that Plaintiff worked for Defendants.

4. Plaintiff was engaged by Defendants to work as a laborer in 2015. As stated above, Plaintiff was a house-keeper for Defendants.

5. Plaintiff was paid what amounted to an hourly wage, not a salary, though Defendants attempted to evade the minimum and overtime wages laws by paying Plaintiff in a piece meal fashion. Plaintiff is not subject to any exemptions under the FLSA.

6. Defendant Vasant Patel owns and operates at least two hotels: *Clarion Inn and Suites at International Drive* and *Red Roof Inn Orlando Convention Center*. Both hotels are located in close proximity to one another. Defendant Vasant Patel required Plaintiff to work at both hotels during each workweek. Defendant Vasant Patel's dual employment technique caused Plaintiff to work more than 40 hours in a single workweek.

7. Defendants EOC Solutions, Inc. and M&M Cleaning, USA, Inc. issued each and every paycheck received by Plaintiff. It is believed that Defendants EOC Solutions, Inc. and M&M Cleaning, USA, Inc. are staffing agencies that provided Plaintiff's services to Defendant Vasant Patel, Hawaiian Court Hospitality, Inc., and Pinnacle Holdings X, LLC, **and it is further believed that EOC Solutions, Inc., and M&M Cleaning, USA, Inc., also functioned as joint employers in regards to Plaintiff(s).**

8. All Defendants violated the FLSA by intentionally issuing Plaintiff two separate checks, one from each hotel, to avoid paying overtime and minimum wages. Although Plaintiff's aggregated time worked is more than 40 hours per workweek, each paycheck shows less than 40 hours and is devoid of overtime premium wages. **Based upon information and belief, it is alleged that the entirety of all Defendants named in this action were, in fact, joint employers**

under the FLSA and that each are, collectively, responsible for violations set forth in this complaint.

9. Plaintiff worked for Defendants, **collectively**, in Orange County, Florida.

10. Instead of paying overtime wages, Defendants, **collectively**, circumvented the FLSA by failing to pay Plaintiff wages, though Plaintiff habitually worked up to 45 hours a week or more since her hire.

11. Plaintiff was not always paid time and a half for all hours worked over forty in any given week.

12. As of this date, Plaintiff has still not been paid the entirety of her wages and has not been compensated for the full extent of his damages and wage loss under the FLSA.

13. It is believed that there are similarly situated employees who were also not paid the full extent of their overtime at the correct rate of pay and who were also subject to the exact same unlawful pay practices, i.e. requiring employees to work at both hotels and issuing two separate checks.

14. Plaintiff seeks full compensation, including liquidated damages because Defendants' conduct, **collectively**, in paying two separate paychecks to avoid overtime, was a calculated attempt to extract more additional work out of Plaintiff for the benefit of Defendants, at the expense of Plaintiff, who was being paid less than premium wages under the FLSA.

15. Defendants are each for profit corporations that operate and conducts business in, among others, Orange County, Florida, and is therefore, within the jurisdiction of the Court. Defendants, at all relevant times to this second amended complaint, were Plaintiff's "joint employer" as defined by 29 U.S.C. § 203(d) and 29 CFR 791. Plaintiff performed duties and responsibilities that involved commerce and/or the production of goods for commerce in the hotel

industry as Defendants **HAWAIIAN COURT HOSPITALITY, LLC, and PINNACLE HOLDINGS X, LLC., (owned and wholly controlled by Defendant VASANT PATEL who also directed Plaintiff's employment and is therefore individually liable under the FLSA)** operate as "Clarion Inn and Red Roof Inn" dealing with interstate customers and using computers and credit cards and data transmission lines. This also would include using materials and other resources that do not originate within the State of Florida to operate a facility that is designed to cater to tourist from out of state.

16. Defendant's EOC SOLUTIONS, INC. and M&M CLEANING, USA, INC., also use computers and data transmission lines as well as materials and other resources that do not originate from within the State of Florida, for the benefit of their clients.

17. This action is brought under the FLSA to recover from Defendants, collectively, unpaid wages in the form of overtime wages, liquidated damages, and reasonable attorneys' fees and costs. This action is intended to include each and every hourly employee who worked for Defendants, **collectively**, at any time within the past three (3) years.

18. The Court has jurisdiction over Plaintiff's claims as all material events transpired in Orange County, including those brought pursuant to 28 U.S.C. § 1337 and the FLSA.

19. At all material times relevant to this action, each corporate Defendant were enterprises covered by the FLSA, and as defined by 29 U.S.C. § 203(r) and 203(s). Upon information and belief, including Plaintiff's experience with Defendants as well as the sheer size of Defendants' organizations reasonably suggest and otherwise indicate that the Defendants, collectively, are a multi-million-dollar operation that has considerable expertise in the hotel and housekeeping industries. Accordingly, Plaintiff alleges that enterprise coverage is present in this case because

Defendants have an annual volume of at least \$500,000.00 in revenue and has two or more employees who handle goods in commerce, including materials and supplies, whom also use telephones, fax machines and other instrumentalities of commerce.

20. At all material times relevant to this action, Plaintiff worked in her capacity as an employee individually covered by the FLSA. This would include to doing hourly work as a laborer. Plaintiff was not paid a fixed, unchanging salary. Instead, she was paid on an hourly basis and her paychecks fluctuated based on the number of hours worked. Plaintiff was not an exempt employee because she did not receive a fixed salary, as required by the FLSA.

Plaintiff did not participate in the creation of budgets or maintain the production of sales nor did Plaintiff plan or control the budget of the Defendants in any way. Plaintiff did not implement legal compliance measures.

21. At all times relevant to this action, Defendants, collectively, failed to comply with 29 U.S.C. §§ 201-209, because Plaintiff performed services for Defendants, collectively, for which no provisions was made by Defendants to properly pay Plaintiff for all hours worked during his employment. Plaintiff worked over 40 hours per nearly every week during her employment with Defendants. The off the clock work that Plaintiff was directed to do was intentional and was designed to extract additional hours of labor out of Plaintiff for the benefit of the Defendant, who then refused to pay Plaintiff and those similarly situated premium wages. Notably, Defendants are in exclusive possession of the majority of relevant records in this case, including payroll records and schedules and other documentation that might reasonably assist Plaintiff with providing even greater specificity regarding the precise weeks that Plaintiff worked more than 40 hours. Plaintiff alleges that she routinely worked in excess of 40 hours per week, including time for which Defendants made no provisions to properly record.

22. Defendants, collectively, failed, refused and/or neglected to keep accurate time records pursuant to 29 U.S.C. § 211(c) of Plaintiff's, and others similarly situated to her, true hours of work.

COUNT I – RECOVERY OF OVERTIME WAGES COMPENSATION

23. Plaintiff reincorporates and readopts all allegations contained within Paragraphs 1-22, above.

24. Plaintiff, and those similarly situated to her, are/were entitled to be paid their regular rate of pay for each hour worked per work week as well as premium wages for those hours worked over forty. During her employment with Defendants, collectively, Plaintiff, and those similarly situated to her, regularly worked hours for each week in which they were not paid at the correct rate of pay. In Plaintiff's case, she routinely performed labor, at Defendants' specific request for the sole benefit of Defendants, collectively, and was not paid for the hours she worked.

25. As a result of Defendants' intentional, willful, and unlawful acts in refusing to pay Plaintiff, and those similarly situated to her, their correct premium rate of pay for each hour worked beyond 40 in one or more work weeks, Plaintiff, and those similarly situated to her, have suffered damages plus incurring reasonable attorneys' fees and costs.

26. As a result of Defendants' collectively willful violations of the FLSA, Plaintiff, and those similarly situated to her, are entitled to payment of the unpaid wages under Florida law, as well as liquidated damages under the FLSA.

27. Plaintiff demands a trial by jury.

WHEREFORE, Plaintiff demands judgment against all Defendants, including, but not limited to, reimbursement of an amount equal to the loss of wages and liquidated damages, together

with costs and attorney's fees pursuant to the FLSA, and such other further relief as this Court deems just and proper.

DATED this 15th day of February, 2017,

I hereby swear and affirm that the facts listed above are true and accurate under penalty of perjury.

Juana M Mata

Juana Mata

Dated: February 15, 2017

/s/ W. John Gadd

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JS 44 (Rev. 11/15)

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.)

I. (a) PLAINTIFFS

JUANA MATA, on her own behalf and others similarly situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
W. John Gadd, Esq.
2727 Ulmerton Road, Suite 250
Clearwater, FL 33762

DEFENDANTS

HAWAIIAN COURT HOSPITALITY, LLC., PINNACLE HOLDINGS X, LLC., EOC SOLUTIONS, INC., M&M CLEANING, USA, INC., and VASANT PATEL, individually,

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

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

Attorneys (If Known)

UNKNOWN

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 (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)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" 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. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	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 (Excludes 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 Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <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 Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <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))	
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	

V. 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 (specify)
- 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

29 USC 201-216
Brief description of cause:
FLSA - WAGE AND HOUR

VII. REQUESTED IN COMPLAINT:

- CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE
02/15/2017

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING FEE JUDGE MAG. JUDGE

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Hawaiian Court Hospitality, Others Pegged with Wage and Hour Lawsuit](#)
