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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
ADAN ESTEBAN MEDELLIN, FERNANDO
MEJIA, and MOISES PEREZ AGUIRRE,
*individually and on behalf of others similarly
situated,*

Plaintiffs,

-against-

FLEET DESIGN INC. (D/B/A FLEET
DESIGNS), ISSAC FISCH , YITZCHOK A
FISCH (AKA MR. HISCO) , and JOHN DOE
(AKA MR. FISHY) ,

Defendants.

-----X

COMPLAINT

**COLLECTIVE ACTION UNDER
29 U.S.C. § 216(b)**

ECF Case

Plaintiffs Adan Esteban Medellin, Fernando Mejia, and Moises Perez Aguirre , individually and on behalf of others similarly situated (collectively, “Plaintiffs”), by and through their attorneys, Michael Faillace & Associates, P.C., upon their knowledge and belief, and as against Fleet Design Inc. (d/b/a Fleet Designs), (“Defendant Corporation”), Issac Fisch, Yitzchok A Fisch (aka Mr. Hisco), and John Doe (aka Mr. Fishy), (“Individual Defendants”), (collectively, “Defendants”), allege as follows:

NATURE OF ACTION

1. Plaintiffs are former employees of Defendants Fleet Design Inc. (d/b/a Fleet Designs), Issac Fisch, Yitzchok A Fisch (aka Mr. Hisco), and John Doe (aka Mr. Fishy).

2. Defendants own, operate, or control a construction company, located at 50 Taaffe Place, Brooklyn, NY 11205 under the name “Fleet Designs”.

3. Upon information and belief, individual Defendants Issac Fisch, Yitzchok A Fisch (aka Mr. Hisco), and John Doe (aka Mr. Fishy), serve or served as owners, managers, principals, or agents of Defendant Corporation and, through this corporate entity, operate or operated the construction company as a joint or unified enterprise.

4. Plaintiffs were employees of Defendants.

5. Plaintiffs were employed as construction workers and ceramic/tiles installers at the construction company located at 50 Taaffe Place, Brooklyn, NY 11205.

6. At all times relevant to this Complaint, Plaintiffs worked for Defendants in excess of 40 hours per week, without appropriate minimum wage and overtime compensation for the hours that they worked.

7. Rather, Defendants failed to maintain accurate recordkeeping of the hours worked, failed to pay Plaintiffs appropriately for any hours worked, either at the straight rate of pay or for any additional overtime premium.

8. Defendants’ conduct extended beyond Plaintiffs to all other similarly situated employees.

9. At all times relevant to this Complaint, Defendants maintained a policy and practice of requiring Plaintiffs and other employees to work in excess of forty (40) hours per week without providing the minimum wage and overtime compensation required by federal and state law and regulations.

10. Plaintiffs now bring this action on behalf of themselves, and other similarly situated individuals, for unpaid minimum and overtime wages pursuant to the Fair Labor Standards Act of

1938, 29 U.S.C. § 201 *et seq.* (“FLSA”), and for violations of the N.Y. Labor Law §§ 190 *et seq.* and 650 *et seq.* (the “NYLL”), including applicable liquidated damages, interest, attorneys’ fees and costs.

11. Plaintiffs seek certification of this action as a collective action on behalf of themselves, individually, and all other similarly situated employees and former employees of Defendants pursuant to 29 U.S.C. § 216(b).

JURISDICTION AND VENUE

12. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question) and the FLSA, and supplemental jurisdiction over Plaintiffs’ state law claims under 28 U.S.C. § 1367(a).

13. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) because all, or a substantial portion of, the events or omissions giving rise to the claims occurred in this district, Defendants maintain their corporate headquarters and offices within this district, and Defendants operate a construction company, located in this district. Further, Plaintiffs were employed by Defendants in this district.

PARTIES

Plaintiffs

14. Plaintiff Adan Esteban Medellin (“Plaintiff Medellin” or “Mr. Medellin”) is an adult individual residing in New York County, New York. Plaintiff Medellin was employed by Defendants at Fleet Designs from approximately October 2005 until on or about April 2017.

15. Plaintiff Fernando Mejia (“Plaintiff Mejia” or “Mr. Mejia”) is an adult individual residing in Bronx County, New York. Plaintiff Mejia was employed by Defendants at Fleet Designs from approximately September 2016 until on or about December 25, 2017.

16. Plaintiff Moises Perez Aguirre (“Plaintiff Perez” or “Mr. Perez”) is an adult individual residing in Bronx County, New York. Plaintiff Perez was employed by Defendants at Fleet Designs from approximately November 2012 until on or about January 2, 2018.

Defendants

17. At all relevant times, Defendants owned, operated, or controlled a construction company, located at 50 Taaffe Place, Brooklyn, NY 11205 under the name “Fleet Designs”.

18. Upon information and belief, Fleet Design Inc. (d/b/a Fleet Designs) is a domestic corporation organized and existing under the laws of the State of New York. Upon information and belief, it maintains its principal place of business at 50 Taaffe Place, Brooklyn, NY 11205.

19. Defendant Issac Fisch is an individual engaging (or who was engaged) in business in this judicial district during the relevant time period. Defendant Issac Fisch is sued individually in his capacity as owner, officer and/or agent of Defendant Corporation. Defendant Issac Fisch possesses operational control over Defendant Corporation, an ownership interest in Defendant Corporation, and controls significant functions of Defendant Corporation. He determines the wages and compensation of the employees of Defendants, including Plaintiffs, establishes the schedules of the employees, maintains employee records, and has the authority to hire and fire employees.

20. Defendant Yitzchok A Fisch (aka Mr. Hisco) is an individual engaging (or who was engaged) in business in this judicial district during the relevant time period. Defendant Yitzchok A Fisch (aka Mr. Hisco) is sued individually in his capacity as owner, officer and/or agent of Defendant Corporation. Defendant Yitzchok A Fisch (aka Mr. Hisco) possesses operational control over Defendant Corporation, an ownership interest in Defendant Corporation, and controls significant functions of Defendant Corporation. He determines the wages and compensation of the employees

of Defendants, including Plaintiffs, establishes the schedules of the employees, maintains employee records, and has the authority to hire and fire employees.

21. Defendant John Doe (aka Mr. Fishy) is an individual engaging (or who was engaged) in business in this judicial district during the relevant time period. Defendant John Doe (aka Mr. Fishy) is sued individually in his capacity as owner, officer and/or agent of Defendant Corporation. Defendant John Doe (aka Mr. Fishy) possesses operational control over Defendant Corporation, an ownership interest in Defendant Corporation, and controls significant functions of Defendant Corporation. He determines the wages and compensation of the employees of Defendants, including Plaintiffs, establishes the schedules of the employees, maintains employee records, and has the authority to hire and fire employees.

FACTUAL ALLEGATIONS

Defendants Constitute Joint Employers

22. Defendants operate a construction company located in the Bedford-Stuyvesant neighborhood in Brooklyn.

23. Individual Defendants, Issac Fisch, Yitzchok A Fisch (aka Mr. Hisco), and John Doe (aka Mr. Fishy), possess operational control over Defendant Corporation, possess ownership interests in Defendant Corporation, and control significant functions of Defendant Corporation.

24. Defendants are associated and joint employers, act in the interest of each other with respect to employees, pay employees by the same method, and share control over the employees.

25. Each Defendant possessed substantial control over Plaintiffs' (and other similarly situated employees') working conditions, and over the policies and practices with respect to the employment and compensation of Plaintiffs, and all similarly situated individuals, referred to herein.

26. Defendants jointly employed Plaintiffs (and all similarly situated employees) and are Plaintiffs' (and all similarly situated employees') employers within the meaning of 29 U.S.C. 201 *et seq.* and the NYLL.

27. In the alternative, Defendants constitute a single employer of Plaintiffs and/or similarly situated individuals.

28. Upon information and belief, Individual Defendants Issac Fisch, Yitzchok A Fisch (aka Mr. Hisco), and John Doe (aka Mr. Fishy) operate Defendant Corporation as either an alter ego of themselves and/or fail to operate Defendant Corporation as an entity legally separate and apart from themselves, by among other things:

- a) failing to adhere to the corporate formalities necessary to operate Defendant Corporation as a Corporation,
- b) defectively forming or maintaining the corporate entity of Defendant Corporation, by, amongst other things, failing to hold annual meetings or maintaining appropriate corporate records,
- c) transferring assets and debts freely as between all Defendants,
- d) operating Defendant Corporation for their own benefit as the sole or majority shareholders,
- e) operating Defendant Corporation for their own benefit and maintaining control over this corporation as a closed Corporation,
- f) intermingling assets and debts of their own with Defendant Corporation,
- g) diminishing and/or transferring assets of Defendant Corporation to avoid full liability as necessary to protect their own interests, and
- h) Other actions evincing a failure to adhere to the corporate form.

29. At all relevant times, Defendants were Plaintiffs' employers within the meaning of the FLSA and New York Labor Law. Defendants had the power to hire and fire Plaintiffs, controlled the terms and conditions of employment, and determined the rate and method of any compensation in exchange for Plaintiffs' services.

30. In each year from 2012 to 2018, Defendants, both separately and jointly, had a gross annual volume of sales of not less than \$500,000 (exclusive of excise taxes at the retail level that are separately stated).

31. In addition, upon information and belief, Defendants and/or their enterprise were directly engaged in interstate commerce. As an example, numerous items that were used in the construction company on a daily basis are goods produced outside of the State of New York.

Individual Plaintiffs

32. Plaintiffs are former employees of Defendants who were employed as construction workers and ceramic/tiles installers.

33. Plaintiffs seek to represent a class of similarly situated individuals under 29 U.S.C. 216(b).

Plaintiff Adan Esteban Medellin

34. Plaintiff Medellin was employed by Defendants from approximately October 2005 until on or about April 2017.

35. Defendants employed Plaintiff Medellin as a construction worker and ceramic/tiles installer.

36. Plaintiff Medellin regularly handled goods in interstate commerce, such as construction materials and other supplies produced outside the State of New York.

37. Plaintiff Medellin's work duties required neither discretion nor independent judgment.

38. Throughout his employment with Defendants, Plaintiff Medellin regularly worked in excess of 40 hours per week.

39. From approximately January 2012 until on or about April 2017, Plaintiff Medellin worked as a construction worker and ceramic/tiles installer from approximately 8:00 a.m. until on or about 5:00 p.m., three days a week and from approximately 8:00 a.m. until on or about 8:00 p.m. two days a week (typically 48.5 hours per week).

40. Throughout his employment, Defendants paid Plaintiff Medellin his wages by check.

41. From approximately January 2012 until on or about December 2013, Defendants paid Plaintiff Medellin \$110 per day.

42. From approximately January 2014 until on or about April 2017, Defendants paid Plaintiff Medellin a fixed salary of \$510 per week (\$15 per hour for only 34 hours).

43. Although defendants required Plaintiff Medellin to work an additional 3 hours past his scheduled departure time two days a week, they only paid him \$10 for these additional hours.

44. Plaintiff Medellin was not required to keep track of his time, nor to his knowledge, did the Defendants utilize any time tracking device such as punch cards, that accurately reflected his actual hours worked.

45. No notification, either in the form of posted notices or other means, was ever given to Plaintiff Medellin regarding overtime and wages under the FLSA and NYLL.

46. Defendants did not provide Plaintiff Medellin an accurate statement of wages, as required by NYLL 195(3).

47. In fact, Defendants adjusted Plaintiff Medellin's paystubs so that they reflected a false lower amount of wages and hours worked.

48. Defendants did not give any notice to Plaintiff Medellin, in English and in Spanish (Plaintiff Medellin's primary language), of his rate of pay, employer's regular pay day, and such other information as required by NYLL §195(1).

49. Defendants required Plaintiff Medellin to purchase "tools of the trade" with his own funds—including fifteen boots, four pairs of gloves and thirty masks.

Plaintiff Fernando Mejia

50. Plaintiff Mejia was employed by Defendants from approximately September 2016 until on or about December 25, 2017.

51. Defendants employed Plaintiff Mejia as a construction worker and ceramic/tiles installer.

52. Plaintiff Mejia regularly handled goods in interstate commerce, such as construction materials and other supplies produced outside the State of New York.

53. Plaintiff Mejia's work duties required neither discretion nor independent judgment.

54. Throughout his employment with Defendants, Plaintiff Mejia regularly worked in excess of 40 hours per week.

55. From approximately September 2016 until on or about December 25, 2017, Plaintiff Mejia worked as a construction worker and ceramic/tiles installer from approximately 8:00 a.m. until on or about 7:00 p.m. to 8:00 p.m., four days a week and from approximately 8:00 a.m. until on or about 9:00 p.m. to 10:00 p.m., one day a week (typically 57 to 62 hours per week).

56. From approximately September 2016 until on or about November 2016 and from approximately November 2017 until on or about December 25, 2017, Defendants paid Plaintiff Mejia his wages by check.

57. From approximately November 2016 until on or about November 2017, Defendants paid Plaintiff Mejia his wages in cash.

58. From approximately September 2016 until on or about November 2016, Defendants paid Plaintiff Mejia a fixed salary of \$494 per week (\$13 per hour for only 38 hours).

59. From approximately November 2016 until on or about November 2017, Defendants paid Plaintiff Mejia a fixed salary of \$100 per day.

60. From approximately November 2017 until on or about December 25, 2017, Defendants paid Plaintiff Mejia a fixed salary of \$510 per week (\$15 per hour for only 34 hours).

61. Plaintiff Mejia's pay did not vary even when he was required to stay later or work a longer day than his usual schedule.

62. In fact, Defendants required Plaintiff Mejia to work a variety of additional hours past his scheduled departure time every day, and did not pay him for the additional time he worked.

63. Plaintiff Mejia was not required to keep track of his time, nor to his knowledge, did the Defendants utilize any time tracking device such as punch cards, that accurately reflected his actual hours worked.

64. No notification, either in the form of posted notices or other means, was ever given to Plaintiff Mejia regarding overtime and wages under the FLSA and NYLL.

65. Defendants did not provide Plaintiff Mejia an accurate statement of wages, as required by NYLL 195(3).

66. In fact, Defendants adjusted Plaintiff Mejia's paystubs so that they reflected a false lower amount of wages and hours worked.

67. Defendants did not give any notice to Plaintiff Mejia of his rate of pay, employer's regular pay day, and such other information as required by NYLL §195(1).

68. Defendants required Plaintiff Mejia to purchase "tools of the trade" with his own funds—including grinders, fifty packs of gloves and twenty packs of masks.

Plaintiff Moises Perez Aguirre

69. Plaintiff Perez was employed by Defendants from approximately November 2012 until on or about January 2, 2018.

70. Defendants employed Plaintiff Perez as a ceramic installer.

71. Plaintiff Perez regularly handled goods in interstate commerce, such as construction materials and other supplies produced outside the State of New York.

72. Plaintiff Perez's work duties required neither discretion nor independent judgment.

73. Throughout his employment with Defendants, Plaintiff Perez regularly worked in excess of 40 hours per week.

74. From approximately November 2012 until on or about November 2016, Plaintiff Perez worked as a ceramic installer from approximately 7:00 a.m. until on or about 6:00 p.m. to 7:00 p.m., 6 days a week (typically 66 to 72 hours per week).

75. From approximately December 2016 until on or about January 2, 2018, Plaintiff Perez worked as a ceramic installer from approximately 7:00 a.m. until on or about 8:00 p.m., 6 days a week (typically 78 hours per week).

76. Throughout his employment, Defendants paid Plaintiff Perez his wages by check.

77. From approximately November 2012 until on or about January 2, 2018, Defendants paid Plaintiff Perez a fixed salary of \$110 per day.

78. Plaintiff Perez's pay did not vary even when he was required to stay later or work a longer day than his usual schedule.

79. For example, Defendants required Plaintiff Perez to work an additional hour past his scheduled departure time three days per week, and did not pay him for the additional time he worked.

80. Plaintiff Perez was not required to keep track of his time, nor to his knowledge, did the Defendants utilize any time tracking device such as punch cards, that accurately reflected his actual hours worked.

81. No notification, either in the form of posted notices or other means, was ever given to Plaintiff Perez regarding overtime and wages under the FLSA and NYLL.

82. Defendants did not provide Plaintiff Perez an accurate statement of wages, as required by NYLL 195(3).

83. In fact, Defendants adjusted Plaintiff Perez's paystubs so that they reflected a false lower amount of wages and hours worked.

84. Defendants did not give any notice to Plaintiff Perez, in English and in Spanish (Plaintiff Perez's primary language), of his rate of pay, employer's regular pay day, and such other information as required by NYLL §195(1).

85. Defendants required Plaintiff Perez to purchase "tools of the trade" with his own funds—including six pairs of gloves each week, ten drills, five ceramic cutters, ten grainers, five packs of sponges and eight shovels and metals for cement.

Defendants' General Employment Practices

86. At all times relevant to this Complaint, Defendants maintained a policy and practice of requiring Plaintiffs (and all similarly situated employees) to work in excess of 40 hours a week without paying them appropriate minimum wage and overtime compensation as required by federal and state laws.

87. Plaintiffs were victims of Defendants' common policy and practices which violate their rights under the FLSA and New York Labor Law by, *inter alia*, not paying them the wages they were owed for the hours they worked...

88. Defendants' pay practices resulted in Plaintiffs not receiving payment for all their hours worked, and resulting in Plaintiffs' effective rate of pay falling below the required minimum wage rate.

89. Defendants habitually required Plaintiffs to work additional hours beyond their regular shifts but did not provide them with any additional compensation.

90. Defendants willfully disregarded and purposefully evaded recordkeeping requirements of the FLSA and NYLL by failing to maintain accurate and complete timesheets and payroll records.

91. Defendants paid Plaintiffs their wages either in cash or by checks that showed a false lower amount of hours worked.

92. Defendants failed to post at the workplace, or otherwise provide to employees, the required postings or notices to employees regarding the applicable wage and hour requirements of the FLSA and NYLL.

93. Upon information and belief, these practices by Defendants were done willfully to disguise the actual number of hours Plaintiffs (and similarly situated individuals) worked, and to avoid paying Plaintiffs properly for their full hours worked.

94. Defendants engaged in their unlawful conduct pursuant to a corporate policy of minimizing labor costs and denying employees compensation by knowingly violating the FLSA and NYLL.

95. Defendants' unlawful conduct was intentional, willful, in bad faith, and caused significant damages to Plaintiffs and other similarly situated former workers.

96. Defendants failed to provide Plaintiffs and other employees with accurate wage statements at the time of their payment of wages, containing: the dates of work covered by that payment of wages; name of employee; name of employer; address and phone number of employer; rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; net wages; the regular hourly rate or rates of pay; the overtime rate or rates of pay; the number of regular hours worked; and the number of overtime hours worked, as required by NYLL §195(3).

97. Defendants failed to provide Plaintiffs and other employees, at the time of hiring and on or before February 1 of each subsequent year, a statement in English and the employees' primary language, containing: the rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; allowances, if any, claimed as part of the minimum wage, including tip, meal, or lodging allowances; the regular pay day designated by the employer; the name of the employer; any "doing business as" names used by the employer; the physical address of the employer's main office or principal place of business, and a mailing address if different; and the telephone number of the employer, as required by New York Labor Law §195(1).

FLSA COLLECTIVE ACTION CLAIMS

98. Plaintiffs bring their FLSA minimum wage, overtime compensation, and liquidated damages claims as a collective action pursuant to FLSA Section 16(b), 29 U.S.C. § 216(b), on behalf

of all similarly situated persons (the “FLSA Class members”), i.e., persons who are or were employed by Defendants or any of them, on or after the date that is three years before the filing of the complaint in this case (the “FLSA Class Period”).

99. At all relevant times, Plaintiffs and other members of the FLSA Class were similarly situated in that they had substantially similar job requirements and pay provisions, and have been subject to Defendants’ common practices, policies, programs, procedures, protocols and plans including willfully failing and refusing to pay them the required minimum wage, overtime pay at a one and one-half their regular rates for work in excess of forty (40) hours per workweek under the FLSA, and willfully failing to keep records required by the FLSA.

100. The claims of Plaintiffs stated herein are similar to those of the other employees.

FIRST CAUSE OF ACTION

VIOLATION OF THE MINIMUM WAGE PROVISIONS OF THE FLSA

101. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

102. At all times relevant to this action, Defendants were Plaintiffs’ employers within the meaning of the Fair Labor Standards Act, 29 U.S.C. § 203(d). Defendants had the power to hire and fire Plaintiffs (and the FLSA Class Members), controlled the terms and conditions of their employment, and determined the rate and method of any compensation in exchange for their employment.

103. At all times relevant to this action, Defendants were engaged in commerce or in an industry or activity affecting commerce.

104. Defendants constitute an enterprise within the meaning of the Fair Labor Standards Act, 29 U.S.C. § 203 (r-s).

105. In violation of 29 U.S.C. § 206(a), Defendants failed to pay Plaintiffs (and the FLSA Class members) at the applicable minimum hourly rate.

106. Defendants' failure to pay Plaintiffs (and the FLSA Class members) at the applicable minimum hourly rate was willful within the meaning of 29 U.S.C. § 255(a).

107. Plaintiffs (and the FLSA Class members) were damaged in an amount to be determined at trial.

SECOND CAUSE OF ACTION

VIOLATION OF THE OVERTIME PROVISIONS OF THE FLSA

108. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

109. Defendants, in violation of 29 U.S.C. § 207(a)(1), failed to pay Plaintiffs (and the FLSA Class members) overtime compensation at a rate of one and one-half times the regular rate of pay for each hour worked in excess of forty hours in a work week.

110. Defendants' failure to pay Plaintiffs (and the FLSA Class members), overtime compensation was willful within the meaning of 29 U.S.C. § 255(a).

111. Plaintiffs were damaged in an amount to be determined at trial.

THIRD CAUSE OF ACTION

VIOLATION OF THE NEW YORK MINIMUM WAGE ACT

112. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

113. At all times relevant to this action, Defendants were Plaintiffs' employers within the meaning of the N.Y. Lab. Law §§ 2 and 651. Defendants had the power to hire and fire Plaintiffs, controlled the terms and conditions of their employment, and determined the rates and methods of any compensation in exchange for their employment.

114. Defendants, in violation of NYLL § 652(1) and the supporting regulations of the New York State Department of Labor, paid Plaintiffs less than the minimum wage.

115. Defendants' failure to pay Plaintiffs the minimum wage was willful within the meaning of N.Y. Lab. Law § 663.

116. Plaintiffs were damaged in an amount to be determined at trial.

FOURTH CAUSE OF ACTION

VIOLATION OF THE OVERTIME PROVISIONS

OF THE NEW YORK STATE LABOR LAW

117. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

118. Defendants, in violation of N.Y. Lab. Law § 190 *et seq.*, and supporting regulations of the New York State Department of Labor, failed to pay Plaintiffs overtime compensation at rates of one and one-half times the regular rate of pay for each hour worked in excess of forty hours in a work week.

119. Defendants' failure to pay Plaintiffs overtime compensation was willful within the meaning of N.Y. Lab. Law § 663.

120. Plaintiffs were damaged in an amount to be determined at trial.

FIFTH CAUSE OF ACTION

VIOLATION OF THE NOTICE AND RECORDKEEPING

REQUIREMENTS OF THE NEW YORK LABOR LAW

121. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

122. Defendants failed to provide Plaintiffs with a written notice, in English and in Spanish (Plaintiffs' primary language), containing: the rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; allowances, if any, claimed as part of

the minimum wage, including tip, meal, or lodging allowances; the regular pay day designated by the employer; the name of the employer; any "doing business as" names used by the employer; the physical address of the employer's main office or principal place of business, and a mailing address if different; and the telephone number of the employer, as required by NYLL §195(1).

123. Defendants are liable to each Plaintiff in the amount of \$5,000, together with costs and attorneys' fees.

SIXTH CAUSE OF ACTION

VIOLATION OF THE WAGE STATEMENT PROVISIONS

OF THE NEW YORK LABOR LAW

124. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

125. With each payment of wages, Defendants failed to provide Plaintiffs with an accurate statement listing each of the following: the dates of work covered by that payment of wages; name of employee; name of employer; address and phone number of employer; rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; net wages; the regular hourly rate or rates of pay; the overtime rate or rates of pay; the number of regular hours worked; and the number of overtime hours worked, as required by NYLL 195(3).

126. Defendants are liable to each Plaintiff in the amount of \$5,000, together with costs and attorneys' fees.

SEVENTH CAUSE OF ACTION

RECOVERY OF EQUIPMENT COSTS

127. Plaintiffs repeat and reallege all paragraphs above as though fully set forth herein.

128. Defendants required Plaintiffs to pay, without reimbursement, the costs and expenses for purchasing and maintaining equipment and “tools of the trade” required to perform their jobs, further reducing their wages in violation of the FLSA and NYLL. 29 U.S.C. § 206(a); 29 C.F.R. § 531.35; N.Y. Lab. Law §§ 193 and 198-b.

129. Plaintiffs were damaged in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment against Defendants by:

(a) Designating this action as a collective action and authorizing prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to all putative class members apprising them of the pendency of this action, and permitting them to promptly file consents to be Plaintiffs in the FLSA claims in this action;

(b) Declaring that Defendants violated the minimum wage provisions of, and associated rules and regulations under, the FLSA as to Plaintiffs and the FLSA Class members;

(c) Declaring that Defendants violated the overtime wage provisions of, and associated rules and regulations under, the FLSA as to Plaintiffs and the FLSA Class members;

(d) Declaring that Defendants violated the recordkeeping requirements of, and associated rules and regulations under, the FLSA with respect to Plaintiffs’ and the FLSA Class members’ compensation, hours, wages, and any deductions or credits taken against wages;

(e) Declaring that Defendants’ violations of the provisions of the FLSA were willful as to Plaintiffs and the FLSA Class members;

(f) Awarding Plaintiffs and the FLSA Class members damages for the amount of unpaid minimum wage, overtime compensation, and damages for any improper deductions or credits taken against wages under the FLSA as applicable;

(g) Awarding Plaintiffs and the FLSA Class members liquidated damages in an amount equal to 100% of their damages for the amount of unpaid minimum wage and overtime compensation, and damages for any improper deductions or credits taken against wages under the FLSA as applicable pursuant to 29 U.S.C. § 216(b);

(h) Declaring that Defendants violated the minimum wage provisions of, and rules and orders promulgated under, the NYLL as to Plaintiffs;

(i) Declaring that Defendants violated the overtime wage provisions of, and rules and orders promulgated under, the NYLL as to Plaintiffs;

(j) Declaring that Defendants violated the notice and recordkeeping requirements of the NYLL with respect to Plaintiffs' compensation, hours, wages and any deductions or credits taken against wages;

(k) Awarding Plaintiffs damages for the amount of unpaid minimum wage and overtime compensation, and for any improper deductions or credits taken against wages as applicable

(l) Awarding Plaintiffs damages for Defendants' violation of the NYLL notice and recordkeeping provisions, pursuant to NYLL §§198(1-b), 198(1-d);

(m) Awarding Plaintiffs liquidated damages in an amount equal to one hundred percent (100%) of the total amount of minimum wage and overtime compensation shown to be owed pursuant to NYLL § 663 as applicable; and liquidated damages pursuant to NYLL § 198(3);

(n) Awarding Plaintiffs and the FLSA Class members pre-judgment and post-judgment interest as applicable;

(o) Awarding Plaintiffs the expenses incurred in this action, including costs and attorneys' fees;

(p) Providing that if any amounts remain unpaid upon the expiration of ninety days following issuance of judgment, or ninety days after expiration of the time to appeal and no appeal is then pending, whichever is later, the total amount of judgment shall automatically increase by fifteen percent, as required by NYLL § 198(4); and

(q) All such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues triable by a jury.

Dated: New York, New York
January 12, 2018

MICHAEL FAILLACE & ASSOCIATES, P.C.

By: /s/ Michael Faillace
Michael Faillace [MF-8436]
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Attorneys for Plaintiffs

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Employment and Litigation Attorneys

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New York, New York 10165

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Facsimile: (212) 317-1620

Faillace@employmentcompliance.com

January 3, 2018

BY HAND

TO: Clerk of Court,

I hereby consent to join this lawsuit as a party plaintiff.

(Yo, por medio de este documento, doy mi consentimiento para formar parte de la demanda como uno de los demandantes.)

Name / Nombre:

Moises Perez Aguirre

Legal Representative / Abogado:

Michael Faillace & Associates, P.C.

Signature / Firma:



Date / Fecha:

03 de enero de 2018

Michael Faillace & Associates, P.C.

Employment and Litigation Attorneys

60 E 42nd Street, Suite 4510
New York, New York 10165

Telephone: (212) 317-1200
Facsimile: (212) 317-1620

Faillace@employmentcompliance.com

January 3, 2018

BY HAND

TO: Clerk of Court,

I hereby consent to join this lawsuit as a party plaintiff.

(Yo, por medio de este documento, doy mi consentimiento para formar parte de la demanda como uno de los demandantes.)

Name / Nombre: Fernando Mejia

Legal Representative / Abogado: Michael Faillace & Associates, P.C.

Signature / Firma:



Date / Fecha:

03 de enero de 2018

Michael Faillace & Associates, P.C.

Employment and Litigation Attorneys

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New York, New York 10165

Telephone: (212) 317-1200
Facsimile: (212) 317-1620

Faillace@employmentcompliance.com

January 5, 2018

BY HAND

TO: Clerk of Court,

I hereby consent to join this lawsuit as a party plaintiff.

(Yo, por medio de este documento, doy mi consentimiento para formar parte de la demanda como uno de los demandantes.)

Name / Nombre:

Adan Esteban Medellin

Legal Representative / Abogado:

Michael Faillace & Associates, P.C.

Signature / Firma:



Date / Fecha:

5 de enero 2018

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
ADAN ESTEBAN MEDELLIN, FERNANDO MEJIA, and MOISES PEREZ AGUIRRE, individually and on behalf of others similarly situated,
(b) County of Residence of First Listed Plaintiff New York
(c) Attorneys (Firm Name, Address, and Telephone Number)
Michael A. Faillace, Michael Faillace & Associates, P.C.
60 East 42nd Suite 4510
New York, NY 10165

DEFENDANTS
FLEET DESIGN INC. (D/B/A FLEET DESIGNS), ISSAC FISCH, YITZCHOK A FISCH (AKA MR. HISCO), and JOHN DOE (AKA MR. FISHY),
County of Residence of First Listed Defendant Kings
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
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)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business In This State 4 4
Incorporated and Principal Place of Business In Another State 5 5
Foreign Nation 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. Contains various legal categories and checkboxes.

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
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):
Plaintiff seek unpaid overtime wages pursuant to The Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq.
Brief description of cause:
unpaid overtime wages

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 01/12/2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Michael Faillace

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Michael Faillace, counsel for Plaintiff, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? N/A

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

- Yes
- No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

- Yes (If yes, please explain)
- No

I certify the accuracy of all information provided above.

Signature: /s/ Michael Faillace

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

ADAN ESTEBAN MEDELLIN, FERNANDO MEJIA,
and MOISES PEREZ AGUIRRE, individually and on
behalf of others similarly situated,

Plaintiff(s)

v.

Civil Action No.

FLEET DESIGN INC. (D/B/A FLEET DESIGNS),
ISSAC FISCH , YITZCHOK A FISCH (AKA MR.
HISCO) , and JOHN DOE (AKA MR. FISHY) ,

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Fleet Design Inc.
50 Taaffe Place
Brooklyn, NY 11205

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:

Michael A. Faillace
MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd Street, Suite 4510
New York, New York 10165

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

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

ADAN ESTEBAN MEDELLIN, FERNANDO MEJIA,
and MOISES PEREZ AGUIRRE, individually and on
behalf of others similarly situated,

Plaintiff(s)

v.

Civil Action No.

FLEET DESIGN INC. (D/B/A FLEET DESIGNS),
ISSAC FISCH , YITZCHOK A FISCH (AKA MR.
HISCO) , and JOHN DOE (AKA MR. FISHY) ,

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Issac Fisch
50 Taaffe Place
Brooklyn, NY 11205

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:

Michael A. Faillace
MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd Street, Suite 4510
New York, New York 10165

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

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

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Additional information regarding attempted service, etc:

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UNITED STATES DISTRICT COURT

for the

Eastern District of New York

ADAN ESTEBAN MEDELLIN, FERNANDO MEJIA,
and MOISES PEREZ AGUIRRE, individually and on
behalf of others similarly situated,

Plaintiff(s)

v.

Civil Action No.

FLEET DESIGN INC. (D/B/A FLEET DESIGNS),
ISSAC FISCH , YITZCHOK A FISCH (AKA MR.
HISCO) , and JOHN DOE (AKA MR. FISHY) ,

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Yitzchok A Fisch
50 Taaffe Place
Brooklyn, NY 11205

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:

Michael A. Faillace
MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd Street, Suite 4510
New York, New York 10165

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

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

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Other *(specify)*:

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Plaintiff(s)

v.

Civil Action No.

FLEET DESIGN INC. (D/B/A FLEET DESIGNS),
ISSAC FISCH, YITZCHOK A FISCH (AKA MR.
HISCO), and JOHN DOE (AKA MR. FISHY),

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) John Doe (aka Mr. Fishy)
50 Taaffe Place
Brooklyn, NY 11205

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:

Michael A. Faillace
MICHAEL FAILLACE & ASSOCIATES, P.C.
60 East 42nd Street, Suite 4510
New York, New York 10165

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

Civil Action No. _____

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Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Construction Workers Claim Brooklyn's Fleet Designs Owes Unpaid Overtime](#)
