

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.:

LAZARO E. MILIAN
and other similarly-situated individuals,

Plaintiff(s),

v.

EXPRESS WASTE OF MIAMI, INC.
a/k/a EXPRESS PORTABLE,
and JUAN C. DAPENA, individually

Defendants,

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

COMES NOW the Plaintiff, LAZARO E. MILIAN, and other similarly-situated individuals, by and through the undersigned counsel, and hereby sues Defendants EXPRESS WASTE OF MIAMI, INC. a/k/a EXPRESS PORTABLE, and JUAN C. DAPENA, individually and alleges:

JURISDICTION VENUES AND PARTIES

1. This is an action to recover money damages for unpaid minimum and overtime wages, and Retaliation 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 LAZARO E. MILIAN is a resident of Miami-Dade County, within de jurisdiction of this Court. Plaintiff is a covered employee for purposes of the Act.

3. Defendant EXPRESS WASTE OF MIAMI, INC. a/k/a EXPRESS PORTABLE (hereinafter EXPRESS PORTABLE, or Defendant) is a Florida corporation, having place of business in Miami-Dade County, Florida, where Plaintiff worked for Defendant, and at all times material hereto, Defendant was engaged in interstate commerce.
4. The individual Defendant JUAN C. DAPENA was and is now, the owner/president/and manager of Defendant Corporation EXPRESS PORTABLE.
5. All the actions raised in this complaint took place in Miami/Dade County Florida, within the jurisdiction of this Court.

GENERAL ALLEGATIONS

6. This cause of action is brought by Plaintiff LAZARO E. MILIAN to recover from Defendants minimum wages and overtime compensation, retaliatory damages, 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").
7. Corporate Defendant EXPRESS PORTABLE is a provider for portable toilet rentals. Defendant has place of business at 2186 NW 22 Avenue, Florida 33142, where Plaintiff worked.
8. Defendant EXPRESS PORTABLE employed Plaintiff LAZARO E. MILIAN as a non-exempt full-time employee approximately from June 7, 2017, to June 10, 2017, or 4 days.
9. Plaintiff was hired to work as a cleaning employee with a wage rate of \$10.00 per hour.
10. During his Four days of employment with Defendants, Plaintiff maintained a regular schedule. Plaintiff worked beginning Wednesday June 7, 2017 to Saturday June 10, 2017, from 4:30 AM to 3:00 PM (10.5 hours each day); Plaintiff worked 4 days a total of 42 hours. Plaintiff did not take any bona fide lunch time.

11. On Saturday June 10, 2017, at the end of his shift, Plaintiff asked the owner of the business JUAN C. DAPENA, when he would be paid, and he mentioned that he had completed 42 hours in 4 working days. Defendant did not use any time-keeping method, and Plaintiff told JUAN C. DAPENA that he had already worked 2 overtime hours. JUAN C. DAPENA informed Plaintiff that EXPRESS PORTABLE did not pay overtime hours.
12. Plaintiff complained and requested to be paid for overtime hours.
13. The next day, Sunday, June 11, 2017 Plaintiff received a telephone call from the supervisor William LNU who told Plaintiff that he was fired, and ordered him not to return to work anymore. The supervisor instructed Plaintiff to pick up his check the following Friday.
14. Plaintiff went to pick up his check, but Defendant did not pay him. Plaintiff tried to collect his payment, but Defendant never paid Plaintiff his hard-earned wages.
15. Therefore, Defendant failed to pay Plaintiff minimum wages and overtime hours at the rate of time and a half his regular rate, in violation of the Fair Labor Standards Act.
16. Plaintiff LAZARO E. MILIAN seeks to recover regular and overtime wages, at the rate of time and a half his regular rate, for every hour in excess of 40 that he worked, retaliatory damages, and any other relief as allowable by law.
17. The additional persons who may become Plaintiffs in this action are employees and/or former employees of Defendants who are and who were subject to the unlawful payroll practices and procedures of Defendants and were not paid 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;
FAILURE TO PAY OVERTIME, AGAINST ALL DEFENDANTS

18. Plaintiff LAZARO E. MILIAN re-adopts each and every factual allegation as stated in paragraphs 1-17 above as if set out in full herein.
19. This cause of action is brought by Plaintiff LAZARO E. MILIAN as a collective action to recover from Defendants overtime compensation, liquidated damages, costs and reasonably attorney's fees under the provisions of the 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 June 2017, (the "material time") without being compensated "at a rate not less than one and a half times the regular rate at which he is employed."
20. Defendant EXPRESS PORTABLE was and is engaged in interstate commerce as defined in §§ 3 (r) and 3(s) of the Act, 29 U.S.C. § 203(r) and 203(s)(1)(A). Defendant is a provider of portable toilet rentals, and is engaged in interstate commerce. Defendant uses the instrumentalities of interstate commerce. Defendant had more than two employees recurrently engaged in commerce or in the production of goods for commerce by regularly and recurrently using the instrumentalities of interstate commerce to accept and solicit funds from non-Florida sources, by using electronic devices to authorize credit card transactions. 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. By reason of the foregoing, Defendant's business activities involve those to which the Fair Labor Standards Act applies. Therefore, there is FLSA enterprise coverage.
21. Plaintiff and those similarly-situated were employed by an enterprise engage in interstate commerce. Plaintiff was a cleaning employee, and Plaintiff and those similarly-situated

through their daily activities regularly handled and worked on goods and materials that were moved across State lines at any time in the course of business. Therefore, there is FLSA individual coverage.

22. Defendants EXPRESS PORTABLE employed Plaintiff LAZARO E. MILIAN as a non-exempt full-time employee approximately from June 7, 2017, to June 10, 2017, or 4 days.
23. Plaintiff was hired to work as a cleaning employee with a wage rate of \$10.00 per hour.
24. During his Four days of employment with Defendants, Plaintiff maintained a regular schedule. Plaintiff worked beginning Wednesday June 7, 2017 to Saturday June 10, 2017, from 4:30 AM to 3:00 PM (10.5 hours each day); Plaintiff worked 4 days a total of 42 hours.
25. Plaintiff worked in excess of 40 hours. However, Plaintiff was not paid regular hours nor overtime hours at any rate, not even the minimum wage rate.
26. Therefore, Plaintiff was not paid for overtime hours at the rate of time and one-half his regular rate for every hour that he worked in excess of forty (40), in violation of Section 7 (a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(a)(1)).
27. Defendant never posted any notice, as required by the Fair Labor Standards Act and Federal Law, to inform employees of their federal rights to overtime and minimum wage payments. Defendants violated the Posting requirements of 29 U.S.C. § 516.4.
28. The records, if any, concerning the number of hours actually worked by Plaintiff and those similarly situated, 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 time accurate records of hours worked by Plaintiff and other employees.
29. Defendant violated the record keeping requirements of FLSA, 29 CFR Part 516.

30. 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 overtime wages is as follows:

* Please note that these amounts are based on a preliminary calculation and that these figures could be subject to modifications as discovery could dictate.

a. Total amount of alleged unpaid O/T wages:

Twenty-One Dollars and 76/100 (\$21.76)

b. Calculation of such wages:

Relevant days of employment: 4 days

Total hours worked: 42 hours weekly

Total overtime hours: 2 hours

Total of unpaid overtime hours: 2 hours

Minimum wage: \$7.25 x 1.5=\$10.88 O/T rate

Overtime rate: \$10.88 an hour

\$10.88 O/T rate x 2 hours=\$21.76

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

This amount represents unpaid overtime wages.

31. At all times material hereto, the Employer/Defendant failed to comply with Title 29 U.S.C. §207 (a) (1), 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 Defendant 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.

32. Defendant 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 remain owing Plaintiff and those similarly-situated these overtime wages since the commencement of Plaintiff's and those similarly-situated employee's employment with Defendant as set

forth above, and Plaintiff and those similarly-situated are entitled to recover double damages.

33. At the times mentioned, individual Defendant JUAN C. DAPENA was the owner and managers of EXPRESS PORTABLE. Defendant JUAN C. DAPENA was the employer of Plaintiff and others similarly situated within the meaning of Section 3(d) of the “Fair Labor Standards Act” [29 U.S.C. § 203(d)]. This individual Defendant acted directly in the interests of EXPRESS PORTABLE in relation to its employees, including Plaintiff and others similarly situated. Defendant JUAN C. DAPENA had absolute financial and operational control of the Corporation, determined terms and working conditions of Plaintiff and other similarly situated employees, and he is jointly liable for Plaintiff’s damages.

34. Defendants EXPRESS PORTABLE, and JUAN C. DAPENA willfully and intentionally refused to pay Plaintiff overtime wages at the rate of time and one half his regular rate, as required by the law of the United States, and remain owing Plaintiff these overtime wages since the commencement of Plaintiff’s employment with Defendants as set forth above.

35. 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 LAZARO E. MILIAN and those similarly-situated respectfully requests that this Honorable Court:

A. Enter judgment for Plaintiff LAZARO E. MILIAN and other similarly-situated individuals and against the Defendants EXPRESS PORTABLE, and JUAN C.

- DAPENA on the basis of Defendants' willful violations of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq.; and
- B. Award Plaintiff LAZARO E. MILIAN actual damages in the amount shown to be due for unpaid 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 LAZARO E. MILIAN demands trial by jury of all issues triable as of right by jury.

COUNT II:
F.L.S.A. WAGE AND HOUR FEDERAL STATUTORY VIOLATION: FAILURE TO
PAY MINIMUM WAGE; AGAINST ALL DEFENDANTS

36. Plaintiff LAZARO E. MILIAN re-adopts each and every factual allegation as stated in paragraphs 1-17 of this complaint as if set out in full herein.
37. This action is brought by Plaintiff LAZARO E. MILIAN to recover from the Employer unpaid minimum wages, 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. §206. U.S.C. §206 states "Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates:
- (1) except as otherwise provided in this section, not less than—

(A) \$5.85 an hour, beginning on the 60th day after May 25, 2008;

(B) \$6.55 an hour, beginning 12 months after that 60th day; and

(C) \$7.25 an hour, beginning 24 months after that 60th day.

38. Defendant EXPRESS PORTABLE was and is engaged in interstate commerce as defined in §§ 3 (r) and 3(s) of the Act, 29 U.S.C. § 203(r) and 203(s)(1)(A). Defendant is a provider of portable toilet rentals, and is engaged in interstate commerce. Defendant uses the instrumentalities of interstate commerce. Defendant had more than two employees recurrently engaged in commerce or in the production of goods for commerce by regularly and recurrently using the instrumentalities of interstate commerce to accept and solicit funds from non-Florida sources, by using electronic devices to authorize credit card transactions. 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. By reason of the foregoing, Defendant's business activities involve those to which the Fair Labor Standards Act applies. Therefore, there is FLSA enterprise coverage.

39. Plaintiff and those similarly-situated were employed by an enterprise engage in interstate commerce. Plaintiff was a cleaning employee, and Plaintiff and those similarly-situated through their daily activities regularly handled and worked on goods and materials that were moved across State lines at any time in the course of business. Therefore, there is FLSA individual coverage.

40. Defendant EXPRESS PORTABLE employed Plaintiff LAZARO E. MILIAN as a non-exempt full-time employee approximately from June 7, 2017, to June 10, 2017, or 4 days.

41. Plaintiff was hired to work as a cleaning employee with a wage rate of \$10.00 per hour.

42. During his Four days of employment with Defendants, Plaintiff maintained a regular schedule. Plaintiff worked beginning Wednesday June 7, 2017 to Saturday June 10, 2017, from 4:30 AM to 3:00 PM (10.5 hours each day); Plaintiff worked in 4 days a total of 42 hours.
43. Plaintiff worked in excess of 40 hours every week period. However, Defendant refused to pay Plaintiff his regular hours at any rate, not even at the mandatory minimum wage rate.
44. Therefore, Defendant EXPRESS PORTABLE failed to pay Plaintiff LAZARO E. MILIAN minimum wages according to the provisions of the Fair Labor Standards Act. (FLSA).
45. The records, if any, concerning the number of hours actually worked by Plaintiff and all other 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.
46. Defendant violated the record keeping requirements of FLSA, 29 CFR Part 516.
47. 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:

*Please note that these amounts are based on a preliminary calculation and that these figures are subjected to modification as discovery could dictate. After Defendant produce time records and paystubs, calculations will be modified accordingly.

*Florida minimum wage is \$8.10 an hour, which is higher than Federal minimum wage. As per FLSA regulations the higher minimum wage applies.

a. Total amount of alleged unpaid wages:

Three Hundred Twenty-Four Dollars and 00/100 (\$324.00)

b. Calculation of such wages:

Relevant weeks of employment: 4 days

Total hours worked: 40 hours weekly

Total of unpaid hours: 40 hours
Florida Minimum wage rate: \$8.10

\$8.10 Min. wage rate x 40 hours=\$324.00

c. Nature of wages:

This amount represents unpaid minimum wages at Florida Min. wage rate.

48. Defendant EXPRESS PORTABLE unlawfully failed to pay minimum wages to Plaintiff. Defendant knew and/or showed reckless disregard of the provisions of the Act concerning the payment of minimum wages as required by the Fair Labor Standards Act and remains owing Plaintiff these minimum wages since the commencement of Plaintiff employment with Defendant as set forth above, and Plaintiff is entitled to recover double damages.
49. At the times mentioned, individual Defendant JUAN C. DAPENA was the owner and managers of EXPRESS PORTABLE. Defendant JUAN C. DAPENA was the employer of Plaintiff and others similarly situated within the meaning of Section 3(d) of the “Fair Labor Standards Act” [29 U.S.C. § 203(d)]. This individual Defendant acted directly in the interests of EXPRESS PORTABLE in relation to its employees, including Plaintiff and others similarly situated. Defendant JUAN C. DAPENA had absolute financial and operational control of the Corporation, determined terms and working conditions of Plaintiff and other similarly situated employees, and he is jointly liable for Plaintiff’s damages.
50. Defendants EXPRESS PORTABLE, and JUAN C. DAPENA willfully and intentionally refused to pay Plaintiff minimum wages as required by the law of the United States, and remain owing Plaintiff these minimum wages as set forth above.
51. 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 LAZARO E. MILIAN respectfully requests that this Honorable Court:

- A. Enter judgment for Plaintiff and against the Defendants EXPRESS PORTABLE, and JUAN C. DAPENA on the basis of Defendants' willful violations of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. and other Federal Regulations; and
- B. Award Plaintiff actual damages in the amount shown to be due for unpaid minimum wages, 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 LAZARO E. MILIAN and those similarly-situated demand trial by jury of all issues triable as of right by jury.

COUNT III:

**FEDERAL STATUTORY VIOLATION PURSUANT TO 29 U.S.C. 215 (a)(3)
RETALIATORY DISCHARGE; AGAINST ALL DEFENDANTS**

52. Plaintiff LAZARO E. MILIAN re-adopts each and every factual allegation as stated in paragraphs 1-17 of this complaint as if set out in full herein.

53. Defendant EXPRESS PORTABLE was and is engaged in interstate commerce as defined in §§ 3 (r) and 3(s) of the Act, 29 U.S.C. § 203(r) and 203(s)(1)(A). Defendant is a provider of portable toilet rentals, and is engaged in interstate commerce. Defendant uses the instrumentalities of interstate commerce. Defendant had more than two employees

recurrently engaged in commerce or in the production of goods for commerce. 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. By reason of the foregoing, Defendant's business activities involve those to which the Fair Labor Standards Act applies. Therefore, there is FLSA enterprise coverage.

54. Plaintiff and those similarly-situated were employed by an enterprise engage in interstate commerce. Plaintiff was a cleaning employee, and Plaintiff and those similarly-situated through their daily activities regularly handled and worked on goods and materials that were moved across State lines at any time in the course of business. Therefore, there is FLSA individual coverage.

55. 29 U.S.C. § 206 (a) (1) states "...an employer must pay a minimum wage of \$5.15/hr to an employee who is engaged in commerce...." [29 U.S.C. § 206 (a) (1)].

56. 29 U.S.C. § 207 (a) (1) states, "if an employer employs an employee for more than forty hours in any work week, the employer must compensate the employee for hours in excess of forty at the rate of at least one and one half-times the employee's regular rate..."

57. Likewise, 29 U.S.C. 215(a)(3) states... it shall be unlawful for any person— "to discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter, or has testified or is about to testify in any such proceeding,....."

58. Defendants EXPRESS PORTABLE employed Plaintiff LAZARO E. MILIAN as a non-exempt full-time employee approximately from June 7, 2017, to June 10, 2017, or 4 days.

59. Plaintiff was hired to work as a cleaning employee with a wage rate of \$10.00 per hour.

60. During his Four days of employment with Defendants, Plaintiff maintained a regular schedule. Plaintiff worked beginning Wednesday June 7, 2017 to Saturday June 10, 2017, from 4:30 AM to 3:00 PM (10.5 hours each day); Plaintiff worked in 4 days a total of 42 hours.
61. Plaintiff worked in excess of 40 hours every week period. However, Plaintiff was not paid regular hours nor overtime hours at any rate, not even the minimum wage rate.
62. On Saturday June 10, 2017, at the end of his shift, Plaintiff asked the owner of the business JUAN C. DAPENA, when he would be paid, and he mentioned that he had completed 42 hours in 4 working days. Defendant did not use any time-keeping method, and Plaintiff told JUAN C. DAPENA that he had already worked 2 overtime hours. JUAN C. DAPENA informed Plaintiff that EXPRESS PORTABLE did not pay overtime hours.
63. Plaintiff complained and requested to be paid for overtime hours.
64. This complaint constituted protected activity under the Fair Labor Standards Act.
65. The next day, Sunday, June 11, 2017 Plaintiff received a telephone call from the supervisor William LNU, who told Plaintiff that he was fired, and ordered him not to return to work anymore. The supervisor instructed Plaintiff to pick up his check the following Friday.
66. Plaintiff went to pick up his check, but Defendant did not pay him. Plaintiff tried to collect his payment, but Defendant never paid Plaintiff his hard-earned wages.
67. Therefore, Defendants failed to pay Plaintiff minimum wages and overtime hours at the rate of time and a half his regular rate, in violation of the Fair Labor Standards Act. 29 U.S.C. §206, and 29 U.S.C. 207(a)(1).

68. On or about June 10, 2017 Plaintiff complained about not being paid for overtime hours and as a retaliatory action, Plaintiff was immediately fired. Then Defendant refused to pay Plaintiff his regular wages, and overtime hours.
69. At all time during his employment with Defendants, Plaintiff performed his duties satisfactorily. There was no reason other than a retaliatory action to terminate Plaintiff's employment with Defendants.
70. At the times mentioned, individual Defendant JUAN C. DAPENA was the owner and managers of EXPRESS PORTABLE. Defendant JUAN C. DAPENA was the employer of Plaintiff and others similarly situated within the meaning of Section 3(d) of the "Fair Labor Standards Act" [29 U.S.C. § 203(d)]. This individual Defendant acted directly in the interests of EXPRESS PORTABLE in relation to its employees, including Plaintiff and others similarly situated. Defendant JUAN C. DAPENA had absolute financial and operational control of the Corporation, determined terms and working conditions of Plaintiff and other similarly situated employees, and he is jointly liable for Plaintiff's damages.
71. Defendants EXPRESS PORTABLE, and JUAN C. DAPENA, willfully and intentionally refused to pay Plaintiff overtime wages as required by the law of the United States as set forth above, and then retaliated against Plaintiff by firing him.
72. The motivating factor which caused Plaintiff's termination as described above was the complaint seeking overtime wages from the Defendants. In other words, Plaintiff would not have been discharged but for his complaint for overtime wages.
73. The Defendants' termination of the Plaintiff was in direct violation of 29 U.S.C. 215 (a) (3) and, as a direct result, Plaintiff has been damaged.

74. 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 LAZARO E. MILIAN respectfully requests that this Honorable Court:

- A. Issue a declaratory judgment that Defendants' acts, policies, practices and procedures complained of herein violated provisions of the Fair Labor Standards Act;
- B. Enter judgment against Defendants EXPRESS PORTABLE, and JUAN C. DAPENA that Plaintiff LAZARO E. MILIAN recovers compensatory, damages and an equal amount of liquidated damages as provided under the law and in 29 U.S.C. § 216(b);
- C. That Plaintiff recovers an award of reasonable attorney fees, costs, and expenses.
- D. Order the Defendants to make whole the Plaintiff by providing appropriate back pay and other benefits wrongly denied in an amount to be shown at trial and other affirmative relief;
- E. Plaintiff LAZARO E. MILIAN further prays for such additional relief as the interests of justice may require.

JURY DEMAND

Plaintiff LAZARO E. MILIAN demands trial by jury of all issues triable as of right by jury.

Dated: June 30, 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@thepalmlawgroup.com
Attorney for Plaintiff

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

LAZARO E. MILIAN

(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

EXPRESS WASTE OF MIAMI, INC. a/k/a EXPRESS PORTABLE, and JUAN C. DAPENA

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 Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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, LABOR, 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:

[] 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 June 30, 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

LAZARO E. MILIAN

Plaintiff

v.

EXPRESS WASTE OF MIAMI, INC.

a/k/a EXPRESS PORTABLE, and JUAN C. DAPENA

Defendant

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) EXPRESS WASTE OF MIAMI, INC. through its Registered Agent:

DAPENA, JUAN C
1220 NW 32 CT
MIAMI, FL 33125

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

LAZARO E. MILIAN

Plaintiff

v.

EXPRESS WASTE OF MIAMI, INC.

a/k/a EXPRESS PORTABLE, and JUAN C. DAPENA

Defendant

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) JUAN C. DAPENA

1220 NW 32 CT
MIAMI, FL 33125

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: [Express Portable, Owner Facing Lawsuit Over Unpaid Wages](#)
