

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.

GIOVANNA PETRAGLIA, and all others
similarly situated

Plaintiff,

vs.

DOWNTOWN TOWING COMPANY, a
Florida Corporation, TIMOTHY RYAN DEL
ROSAL, individually, BRANDON RAY DEL
ROSAL, individually, and ZACHARY
ROBERT DEL ROSAL, individually,

Defendants.

COMPLAINT

COMES NOW Plaintiff, GIOVANNA PETRAGLIA (“PETRAGLIA”), by and through her undersigned attorney, and hereby sues Defendants, DOWNTOWN TOWING COMPANY, a Florida Corporation, TIMOTHY RYAN DEL ROSAL, individually, BRANDON RAY DEL ROSAL, individually, and ZACHARY ROBERT DEL ROSAL, individually, and as grounds alleges:

JURISDICTIONAL ALLEGATIONS

1. This is an action to recover monetary damages, liquidated damages, interests, costs and attorney’s fees for willful violations of overtime wages under the laws of the United States, the Fair Labor Standards Act, 29 U.S.C. §§201-219) (“the FLSA”).
2. Plaintiff is a resident of Miami-Dade County, Florida, within the jurisdiction of this Honorable Court.

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1331 because this action involves the Fair Labor Standards Act, 29 U.S.C. §§201, *et seq.*, a federal statute.

4. Venue is proper in this district pursuant to 28 U.S.C. §1391(c) and (d).

5. Defendant DOWNTOWN TOWING is a Florida corporation which regularly conducted business within the Southern District of Florida as a tow truck company.

6. DOWNTOWN TOWING is and, at all times pertinent to this Complaint an enterprise engaged in commerce, as it had two or more employees on a regular and consistent basis handle goods and/or materials that had moved in interstate commerce. Specifically, PETRAGLIA and at least one other employee of DOWNTOWN TOWING would routinely handle computer and office equipment which had travelled in interstate commerce. Additionally, two or more tow truck drivers would routinely handle and use tow-truck tools, equipment and materials that had travelled in interstate commerce, including but not limited to road flares, safety cones jumper cables and/or jump box, screwdrivers, and wrenches. Additionally, DOWNTOWN TOWING had two or more employees that regularly used the interstate highways in furtherance of the corporate Defendant's business Furthermore, DOWNTOWN TOWING, by and through their employees, obtains and solicits funds from non-Florida sources, accepts funds from non-Florida sources, uses telephonic transmissions going over state lines to do its business and transmits funds outside the State of Florida.

7. Upon information and belief, the annual gross sales or business done of DOWNTOWN TOWING was at all times material hereto in excess of \$500,000.00 per annum. DOWNTOWN TOWING gross annual sales or business done was in excess of \$500,000, for the year of 2015, 2016, and 2017.

8. By reason of the foregoing, DOWNTOWN TOWING is and was, during all times hereafter mentioned, an enterprise engaged in commerce or in the production of goods for commerce as defined in §3(r) and 3(s) of the FLSA, 29 U.S.C. §203(r) and 203(s) and/or Plaintiff is within interstate commerce.

9. The individual Defendant, TIMOTHY RYAN DEL ROSAL, is an “employer,” as defined in 29 U.S.C. § 203(d), as he has operational control over the Defendant corporation and is directly involved in decisions affecting employee compensation and hours worked by employees such as Plaintiff and opt-in plaintiffs. Defendant TIMOTHY RYAN DEL ROSAL controlled the purse strings for the corporate Defendant. Defendant TIMOTHY RYAN DEL ROSAL hired and fired employees, determined the rate of compensation and was responsible for ensuring that employees were paid the wages required by the FLSA.

10. The individual Defendant, BRANDON RAY DEL ROSAL, is an “employer,” as defined in 29 U.S.C. § 203(d), as he has operational control over the Defendant corporation and is directly involved in decisions affecting employee compensation and hours worked by employees such as Plaintiff and opt-in plaintiffs. Defendant BRANDON RAY DEL ROSAL controlled the purse strings for the corporate Defendant. Defendant BRANDON RAY DEL ROSAL hired and fired employees, determined the rate of compensation and was responsible for ensuring that employees were paid the wages required by the FLSA.

11. The individual Defendant, ZACHARY ROBERT DEL ROSAL, is an “employer,” as defined in 29 U.S.C. § 203(d), as he has operational control over the Defendant corporation and is directly involved in decisions affecting employee compensation and hours worked by employees such as Plaintiff and opt-in plaintiffs. Defendant ZACHARY ROBERT DEL ROSAL controlled the purse strings for the corporate Defendant. Defendant ZACHARY ROBERT DEL ROSAL

hired and fired employees, determined the rate of compensation and was responsible for ensuring that employees were paid the wages required by the FLSA.

COUNT I: UNPAID OVERTIME WAGES

12. Plaintiff re-alleges and re-avers paragraphs 1 through 11 as fully set forth herein.

13. Plaintiff was employed by the Defendants as a non-exempt office employee who performed her duties within South Florida.

14. Plaintiff was employed from on or about July, 2004 through July 25, 2017.

15. Plaintiff worked approximately 45-50 hours per week.

16. Plaintiff was paid an average hourly rate of \$13.68/hr. (based on an estimated 47.5 hours per week).

17. Defendants were required to pay Plaintiff overtimes wages. Plaintiff was not paid overtime wages at a rate of time and one half, when she worked more than 40 hours per week.

18. Plaintiff was not paid any wages when she worked more than 40 hours per week. Accordingly, Plaintiff claims the time-and-a-half rate for each hour worked over 40 hours weekly.

19. The FLSA requires that employees be paid overtime hours worked in excess of forty (40) hours weekly at a rate of time-and-one-half the regular rate. At all times material hereto, Defendants failed to comply with Title 29 U.S.C. § 201-219 and 29 C.F.R. §516.2 and §516.4 et seq. in that Plaintiff performed services and worked in excess of the maximum hours provided by the FLSA but no provision was made by the Defendants to properly pay her at the rate of time and one-half for all hours worked in excess of forty (40) per workweek as provided in the FLSA.

20. Defendants knew and/or showed reckless disregard of the provisions of the FLSA concerning the payment of overtime wages as required by the Fair Labor Standards Act. Defendants were aware of Plaintiff's work schedule and further aware that Plaintiff was working

more than 40 hours per week. Defendants were aware of Plaintiff's pay records and the rate that she was being paid for her hours. Upon information and belief, Defendants pay other employees in the same manner. Despite Defendants' having knowledge of Plaintiff's hours and their failure to pay overtime wages, Defendants did not change its pay practices and continued to fail to pay Plaintiff, and those similarly situated, the overtime wages she is due. Thus, Defendants continue to willfully violate the FLSA despite having been sued for overtime wages. Additionally, the Corporate Defendant has previously sued for overtime wages and have failed to correct their pay practices.

21. The similarly situated individuals are those individuals whom were employed by the Defendants as office employees, like the Plaintiff, and whom were not paid overtime wages.

22. Plaintiff has retained the law offices of the undersigned attorneys to represent her in this action and is entitled to award of reasonable attorney's fees.

WHEREFORE, Plaintiff requests compensatory and liquidated damages, and reasonable attorney's fees and costs from Defendants, jointly and severally, pursuant to the Fair Labor Standards Act as cited above, to be proven at the time of trial for overtime owing from Plaintiff's entire employment period with Defendants, or as much as allowed by the Fair Labor Standards Act, whichever is greater, along with court costs. In the event that Plaintiff does not recover liquidated damages, then Plaintiff will seek an award of prejudgment interest for the unpaid overtime, and any and all other relief which this Court deems reasonable under the circumstances.

JURY DEMAND

Plaintiff and those similarly-situated demands trial by jury of all issues triable as of right by jury.

Dated: July 6, 2018

Law Office of Daniel T. Feld, P.A.
Co-Counsel for Plaintiff
2847 Hollywood Blvd.
Hollywood, Florida 33020
Tel: (954) 361-8383
Email: DanielFeld.Esq@gmail.com

/s Daniel T. Feld
Daniel T. Feld, Esq.
Florida Bar No. 37013

Mamane Law LLC
Co-counsel for Plaintiff
10800 Biscayne Blvd., Suite 350A
Miami, Florida 33161
Telephone (305) 773 - 6661
E-mail: mamane@gmail.com

s/ Isaac Mamane
Isaac Mamane, Esq.
Florida Bar No. 44561

UNITED STATES DISTRICT COURT

for the
Southern District of Florida

GIOVANNA PETRAGLIA, and all
others similarly situated

Plaintiff,

vs.

DOWNTOWN TOWING COMPANY,
a Florida Corporation, TIMOTHY
RYAN DEL ROSAL, individually,
BRANDON RAY DEL ROSAL,
individually, and ZACHARY ROBERT
DEL ROSAL, individually,

Defendants.

SUMMONS IN A CIVIL ACTION

To:

DOWNTOWN TOWING COMPANY
c/o Anthony D. George, Jr.
3473 SE Willoughby Blvd.
Stuart, Florida 34994

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:

MAMANE LAW LLC
10800 Biscayne Blvd., Suite 350A
Miami, Florida 33161

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

UNITED STATES DISTRICT COURT

for the
Southern District of Florida

GIOVANNA PETRAGLIA, and all
others similarly situated

Plaintiff,

vs.

DOWNTOWN TOWING COMPANY,
a Florida Corporation, TIMOTHY
RYAN DEL ROSAL, individually,
BRANDON RAY DEL ROSAL,
individually, and ZACHARY ROBERT
DEL ROSAL, individually,

Defendants.

SUMMONS IN A CIVIL ACTION

To:

TIMOTHY RYAN DEL ROSAL
1451 NW 20th Street
Miami, Florida 33142

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:

MAMANE LAW LLC
10800 Biscayne Blvd., Suite 350A
Miami, Florida 33161

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

UNITED STATES DISTRICT COURT

for the
Southern District of Florida

GIOVANNA PETRAGLIA, and all
others similarly situated

Plaintiff,

vs.

DOWNTOWN TOWING COMPANY,
a Florida Corporation, TIMOTHY
RYAN DEL ROSAL, individually,
BRANDON RAY DEL ROSAL,
individually, and ZACHARY ROBERT
DEL ROSAL, individually,

Defendants.

SUMMONS IN A CIVIL ACTION

To:

BRANDON RAY DEL ROSAL
1451 NW 20th Street
Miami, Florida 33142

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:

MAMANE LAW LLC
10800 Biscayne Blvd., Suite 350A
Miami, Florida 33161

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

UNITED STATES DISTRICT COURT

for the
Southern District of Florida

GIOVANNA PETRAGLIA, and all
others similarly situated

Plaintiff,

vs.

DOWNTOWN TOWING COMPANY,
a Florida Corporation, TIMOTHY
RYAN DEL ROSAL, individually,
BRANDON RAY DEL ROSAL,
individually, and ZACHARY ROBERT
DEL ROSAL, individually,

Defendants.

SUMMONS IN A CIVIL ACTION

To:

ZACHARY ROBERT DEL ROSAL
1451 NW 20th Street
Miami, Florida 33142

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:

MAMANE LAW LLC
10800 Biscayne Blvd., Suite 350A
Miami, Florida 33161

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 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.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS GIOVANNA PETRAGLIA

DEFENDANTS Downtown Towing Company, Timoty Ryan Del Rosal, Brandon Ray Del Rosal, et al.

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

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Mamane Law LLC, 10800 Biscayne Blvd, Suite 350A, Miami, Florida 33161

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

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

- 1 U.S. Government Plaintiff Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant Diversity (Indicate Citizenship of Parties in Item III)

- 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)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 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 8 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S) (See instructions):

a) Re-filed Case [] YES [X] NO b) Related Cases [] YES [X] NO

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): unpaid overtime wages; FLSA

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

DATE SIGNATURE OF ATTORNEY OF RECORD

July 6, 2018 /s/ Isaac Mamane

FOR OFFICE USE ONLY

RECEIPT # AMOUNT IFF 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: [Lawsuit Filed Against Downtown Towing Company Over Allegedly Unpaid Overtime Wages](#)
