

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

STEVEN SALTZMAN, on behalf of himself and
others similarly situated,

Civil Action No.
17-cv-61940

Plaintiff,

COMPLAINT

-against-

ADVANCE CASE PARTS, INC.,
PAUL PODHURST, and,
WARD HUDE,

Plaintiff Demands a Trial
by Jury

Defendants.

Plaintiff STEVEN SALTZMAN (“Saltzman ” or “plaintiff”), on behalf of himself and others similarly situated (the “Collective”) (altogether “plaintiffs”), by their attorneys, LEVINE & BLIT, PLLC, complaining of Defendants ADVANCE CASE PARTS, INC. (“Advance”, “the company” or “defendant”), PAUL PODHURST, individually (“Podhurst” or “defendant”), and WARD HUDE, individually (“Hude” or “defendant”) (collectively “defendants”), respectfully alleges upon information and belief:

NATURE OF THE ACTION

1. This action is brought to remedy unpaid overtime wages, in violation of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (“FLSA”).
2. Defendants' actions were unlawful and plaintiffs seek injunctive and declaratory relief, monetary damages, liquidated damages, interest, attorneys' fees, and other appropriate legal and equitable relief pursuant to the FLSA and such other further relief as this Court deems necessary and proper.

JURISDICTION AND VENUE

3. Jurisdiction of this Court is proper under 28 U.S.C. §1331, because the matter in controversy is a civil action arising under the Constitution, laws or treaties of the United States.

4. Venue of this action in the Southern District of Florida under 28 U.S.C. §1391 is appropriate as Defendants have their principle place of business within the district, and as the Southern District is the judicial district where a substantial part of the events or omissions giving rise to the claim occurred.

PARTIES

5. Plaintiff Saltzman is an individual who resides in Broward County, FL.

6. Upon information and belief, defendant Podhurst is a resident of Broward County, FL, and is a corporate officer of, and exercises control over, Advanced.

7. Upon information and belief, defendant Hude is a resident of Broward County, FL, and is a corporate officer of, and exercises control over, Advanced.

8. Defendant Advanced is a domestic business corporation with a principle place of business at 12489 NW 44th St., Coral Springs, FL. Advanced provides refrigeration, ice and air conditioning products and services, among other things, to commercial customers.

9. At all times relevant to this action, Defendants were “employers” of plaintiffs within the meaning of the FLSA § 203.

10. Upon information and belief, at all times relevant to this action, Advanced has been an enterprise engaged in interstate commerce within the meaning of the FLSA, 29 U.S.C § 207(a)

insofar that it: (1) has had employees engaged in commerce or in the production of goods for commerce, and handles, sells or otherwise works on goods or materials that have been moved in or produced for commerce by any person; and (2) has had annual gross volume of sales not less than \$500,000.

11. Upon information and belief, plaintiffs have been engaged in interstate commerce in the distribution of materials and equipment manufactured outside the state of Florida.

12. At all times relevant to this action, defendants Podhurst and Hude held supervisory positions over the plaintiffs, set rates of pay, set hours worked, determined that plaintiffs would not be paid proper overtime wages, and otherwise undertook and recommended tangible employment decisions controlling the terms and conditions of plaintiffs' employment with defendant Advanced.

13. At all times relevant to this action, plaintiffs were employees of Defendants within the meaning of the FLSA, and entitled to protection. At all times relevant to this action, plaintiffs performed services as employees for defendants within the Southern District of Florida.

FACTUAL ALLEGATIONS

14. Saltzman began his employment tenure with defendants in or about September, 2015, and worked continuously for defendants until approximately August, 2017.

15. Saltzman was hired by defendants to work as a service technician. Saltzman's job duties included but were not limited to repairing commercial ice machines, air conditioners and refrigerators.

16. At the time that defendants hired Saltzman, defendants informed Saltzman that his rate of

pay would be \$23.00 per hour. In or around October, 2015, defendants awarded Saltzman a pay increase to \$24.00 per hour. This rate of pay remained throughout Saltzman's employment tenure with defendants.

17. At the time that defendants hired Saltzman, defendants informed Saltzman that his weekly work shift would be no less than 40 hours per week.

18 From his hiring through his termination, plaintiff worked for defendants for no less than fifty (50) to eighty (80) hours per week, just about each and every workweek throughout his entire tenure. Saltzman oftentimes worked six to seven days per week throughout his tenure.

19. For example, for a week in or about July, 2017 Saltzman worked a total of no less than fifty-eight (58) hours, including 9.5 hours on or about 7/12, 10.75 hours on or about 7/13, 12.75 hours on or about 7/14, 9.5 hours on or about 7/15, 11.5 hours on or about 7/16, and 4 hours on or about 7/17.

20. Oftentimes, on a weekly basis, Saltzman submitted log sheets to defendants showing his hours worked. Defendants regularly, and intentionally, cut anywhere between approximately five (5) hours up to thirty (30) hours from his log sheets on a weekly basis, thus paying him straight time for significantly less than his actual hours worked.

21. When it came time to get paid, Saltzman almost always noticed that he was paid for significantly less hours than he actually worked, as a way for defendants to avoid paying overtime wages, and was routinely not paid overtime wages for hours worked over forty in a workweek.

22. In fact, routinely during Saltzman's employment tenure with defendants, defendants failed to pay Saltzman overtime wages of one-and-one-half times (1.5x) his regular rate of pay for all

hours worked over forty (40) in a workweek.

23. Defendants were aware or should have been aware that their pay practices, as alleged herein, were in violation of the FLSA, but willfully engaged in such unlawful pay practices regardless.

24. Defendants' non-payment of overtime wages was willful and without a good faith belief of compliance with the law; therefore, Saltzman is entitled to recover liquidated damages under the FLSA.

25. Due to defendants' intentional efforts to avoid paying Saltzman proper overtime wages throughout his employment tenure, Saltzman has suffered significant damages in the form of unpaid overtime wages.

26. Accordingly, due to defendants' unlawful actions, Saltzman is owed the entirety of his unpaid overtime wages, plus all statutory damages associated with these unpaid overtime wages, including liquidated damages, interest, attorneys' fees and costs.

COLLECTIVE ACTION ALLEGATIONS

27. At all times within the applicable statutory period, defendants have employed dozens of workers in a similar or same non-exempt position as Saltzman, who were denied overtime wages and were subjected to the same terms and conditions of employment as plaintiffs.

28. Defendants regularly engaged in the employment practice of denying overtime wages to non-exempt employees, including Saltzman, pursuant to the acts and practices alleged herein.

29. The unlawful employment practices at issue with respect to the similarly situated

employees and the named plaintiff in this action are identical, as defendants, in all cases, have willfully denied such employees overtime wages.

30. Past and current non-exempt employees employed by defendants who are similarly situated to the named plaintiff in this action are identical, insofar as defendants have willfully denied such employees overtime wages.

31. Past and current non-exempt employees employed by defendants who are similarly situated to the named plaintiffs in this action should have an opportunity to have their claims heard for alleged violations of the FLSA.

32. Certifying this collective action will afford such similarly situated employees the opportunity to receive notice of the action and allow them to opt-in to such action if they so desire.

**FIRST CAUSE OF ACTION OF PLAINTIFFS AND THE COLLECTIVE
AGAINST ALL DEFENDANTS
(Unpaid Overtime Wages Under the FLSA)**

33. Plaintiff hereby repeats, reiterates and realleges each and every allegation set forth above with the same force and effect as if more fully set forth herein.

34. At all times relevant to this action, defendants were covered employers pursuant to the FLSA.

35. Throughout the entirety of Saltzman's employment tenure with defendants, Saltzman worked no less than approximately fifty (50) to eighty (80) hours per week for defendants, just

about each and every workweek, as a non-exempt employee pursuant to the FLSA.

36. Defendants failed to pay Saltzman, and those similarly situated, overtime wages of 1.5 times their regular rates of pay for all hours worked in excess of forty in a workweek, throughout their employment tenures, in violation of the FLSA.

37. Defendants failure to pay overtime premiums was willful.

38. As a result of Defendants' FLSA violations, plaintiffs are entitled to recover from defendants their unpaid overtime wages, and an equal amount representing statutorily prescribed liquidated damages, as well as reasonable attorneys' fees and costs of this action, and interest, pursuant to the FLSA.

JURY DEMAND

Plaintiffs respectfully requests a trial by Jury.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully requests that this Court enter an Order:

(a) certifying the Collective, certifying named plaintiff as Collective's representatives, and certifying named plaintiffs' counsel as counsel for the Collective;

(b) declaring the acts and practices complained of herein are in violation of the FLSA;

(c) directing Defendants to pay Plaintiffs and the Collective their actual damages in an amount to be determined at trial for lost overtime wages, as provided by the FLSA;

(d) directing Defendants to pay Plaintiffs and the Collective liquidated damages, as provided by the FLSA;

(e) directing Defendants to pay Plaintiff's and the Collective's reasonable attorneys' fees, together with the costs and disbursements of this action; and

(f) directing such other and further relief as this Court deems just and equitable.

Dated: New York, New York

September 21, 2017

Respectfully Submitted,



By: RUSSELL MORIARTY, ESQ.

Florida Bar No. 110964

LEVINE & BLIT, PLLC
Attorneys for Plaintiffs

201 South Biscayne Boulevard
Suite 2800
Miami, FL 33131
Phone: (305)913-1338
Email: RMoriarty@LevineBlit.com

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 STEVEN SALTZMAN, on behalf of himself and others similarly situated DEFENDANTS ADVANCE CASE PARTS, INC., PAUL PODHURST, WARD HUDE

(b) County of Residence of First Listed Plaintiff Broward County of Residence of First Listed Defendant Broward (EXCEPT IN U.S. PLAINTIFF CASES) (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) Levine & Blit, PLLC, 201 S. Biscayne Blvd., Suite 2800, Miami, FL 33131 Attorneys (If Known)

(d) Check County Where Action Arose: 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 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant 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)

- Citizen of This State Citizen of Another State Citizen or Subject of a Foreign Country
PTF DEF PTF DEF PTF DEF
1 1 4 4
2 2 5 5
3 3 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

- CONTRACT 110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excl. Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise
PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury 362 Personal Injury - Med. Malpractice
TORTS 365 Personal Injury - Product Liability 367 Health Care/Pharmaceutical Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability
LABOR 710 Fair Labor Standards Act 720 Labor/Mgmt. Relations 740 Railway Labor Act 751 Family and Medical Leave Act 790 Other Labor Litigation 791 Empl. Ret. Inc. Security Act
FEDERAL TAX SUITS 870 Taxes (U.S. Plaintiff or Defendant) 871 IRS-Third Party 26 USC 7609
OTHER STATUTES 375 False Claims Act 376 Qui Tam (31 USC 3729 (a)) 400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce 460 Deportation 470 Racketeer Influenced and Corrupt Organizations 480 Consumer Credit 490 Cable/Sat TV 850 Securities/Commodities/Exchange 890 Other Statutory Actions 891 Agricultural Acts 893 Environmental Matters 895 Freedom of Information Act 896 Arbitration 899 Administrative Procedure Act/Review or Appeal of Agency Decision 950 Constitutionality of State 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 Transfer 7 Appeal to District Judge from Magistrate Judgment 8 Multidistrict Litigation - Direct File 9 Remanded from Appellate Court

VI. RELATED/RE-FILED CASE(S) (See instructions): a) Re-filed Case YES NO b) Related Cases YES NO JUDGE: DOCKET NUMBER:

VII. CAUSE OF ACTION FLSA - unpaid overtime wages 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): LENGTH OF TRIAL via 5 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: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE DATE 10/2/17 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY RECEIPT # AMOUNT IFP JUDGE MAG JUDGE

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

UNITED STATES DISTRICT COURT

for the

Southern District of Florida



STEVEN SALTZMAN, on behalf of himself and others
similarly situated,

Plaintiff(s)

v.

ADVANCE CASE PARTS, INC.,
PAUL PODHURST, and,
WARD HUDE,

Defendant(s)

Civil Action No. 17-cv-61940

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Advance Case Parts, Inc.
12489 NW 44th St.
Coral Springs, FL 33065

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:

Russell S. Moriarty, Esq.
Levine & Blit, PLLC
201 S. Biscayne Blvd., Suite 2800
Miami, FL 33131

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. 06/12) Summons in a Civil Action (Page 2)

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:

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

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

STEVEN SALTZMAN, on behalf of himself and others
similarly situated,

Plaintiff(s)

v.

ADVANCE CASE PARTS, INC.,
PAUL PODHURST, and,
WARD HUDE,

Defendant(s)

Civil Action No. 17-cv-61940

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*
Paul Podhurst
Advance Case Parts, Inc.
12489 NW 44th St.
Coral Springs, FL 33065

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:

Russell S. Moriarty, Esq.
Levine & Blit, PLLC
201 S. Biscayne Blvd., Suite 2800
Miami, FL 33131

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on *(date)* _____; or

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, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

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v.

ADVANCE CASE PARTS, INC.,
PAUL PODHURST, and,
WARD HUDE,

Defendant(s)

Civil Action No. 17-cv-61940

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Ward Hude
Advance Case Parts, Inc.
12489 NW 44th St.
Coral Springs, FL 33065

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:

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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:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Advance Case Parts, Two Individuals Facing Unpaid Overtime Lawsuit](#)
