

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

ANGEL SAMANIEGO, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

**LANDSCAPE DESIGN & CONTRACTING
INC.**, a Domestic Business Corporation;
BLOCK’S NURSERY, INC., a Domestic
Business Corporation; and **BARRY BLOCK**,
individually;

Defendants.

CASE NO. _____

COLLECTIVE ACTION COMPLAINT

ECF CASE

JURY TRIAL DEMANDED

CLASS / COLLECTIVE ACTION COMPLAINT

ANGEL SAMANIEGO (“Plaintiff”), by and through his undersigned attorneys, hereby submits the following complaint against LANDSCAPE DESIGN & CONTRACTING INC. (“Barry Block Landscape”), BLOCK’S NURSERY, INC. (“Block’s Nursery”), and BARRY BLOCK, individually (“Block”) (collectively “Defendants”), and alleges:

NATURE OF THE ACTION

1. This action seeks to redress Defendants systematic policy and practice of requiring employees to work overtime hours, without properly paying overtime wages as required by the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 *et seq.* (“FLSA”), New York Labor Law, N.Y. Lab. Law, Art. 19 § 650 *et seq.* (“NYLL”), and Rules and Regulations of the State of New York (“NYCRR”) § 142-2.

2. The FLSA, NYLL and NYCRR require employers to compensate employees for all hours worked, and at an overtime rate for all work completed over 40 hours per week.

However, Defendants systematically failed to properly compensate Plaintiff and those similarly situated at the proper overtime rate for all work over 40 hours per week.

3. Plaintiff brings his FLSA claims against Defendants as a collective action pursuant to 29 U.S.C. § 216 on behalf of all employees Defendants have employed for any length of time during the maximum allowable limitations period.

JURISDICTION AND VENUE

4. This Court also has jurisdiction under the provisions of the FLSA pursuant to 29 U.S.C. § 216(b) and under 28 U.S.C. § 1331 (federal questions jurisdiction), and supplemental jurisdiction over Plaintiff's NYLL and NYCRR claims pursuant to 28 U.S.C. § 1367.

5. Venue is appropriate in this District pursuant to 28 U.S.C. § 1391(b)(2), because Plaintiff resides in this District, worked for Defendants in this District and suffered the losses at issue in this District.

PARTIES

6. ANGEL SAMANIEGO is a resident of Mastic, New York.

7. At times relevant hereto, Plaintiff worked full time as a non-exempt Laborer for Defendants (2008 through 2012 and again from March, 2014 through March, 2017).

8. LANDSCAPE DESIGN & CONTRACTING INC. is a New York Corporation with its principal office located at 2 Tuthill Point Farm Rd, East Moriches, New York 11940.

Exhibit A.

9. BLOCK'S NURSERY, INC. is a New York Corporation with its principal office located at 2 Tuthill Point Farm Rd, East Moriches, New York 11940. **Exhibit B.**

10. BARRY BLOCK is the Owner of Barry Block Landscape and Block's Nursery, and resident of East Moriches, New York.

11. At all times relevant hereto, Defendants jointly employed Plaintiff. To that end, Plaintiff simultaneously was directed by Defendants and performed work for all of the Defendants within the same workweeks, throughout his employment.

EMPLOYMENT RELATIONSHIP

12. Defendants each had the power to hire and fire Plaintiff.

13. Defendants each controlled Plaintiff's work schedule.

14. Defendants each scheduled Plaintiff and other laborers to certain shifts.

15. Defendants each required Plaintiff and other laborers to work a certain number of days during the week.

16. Defendants each determined the rate and the method of payment of all laborers including Plaintiff.

17. At all times relevant hereto, Defendants operated their business with a common business purpose, with common management, and with the same employees.

18. At all material times, Defendants have been employers within the meaning of 3(d) of the FLSA. 29 U.S.C. § 203(d).

19. Moreover, the Fair Labor Standards Act ("FLSA") defines the term "employer" broadly to include "any person acting directly or indirectly in the interest of an employer in relation to any employee." 29 U.S.C. § 203(d).

20. Defendant Barry Block is the Owner and Executive Officer of Barry Block Landscape.

21. Defendant Barry Block directs the day-to-day business operation of Barry Block Landscape.

22. Defendant Barry Block has responsibility for the supervision of the laborers at Barry Block Landscape.

23. Defendant Barry Block is responsible for the compensation or lack thereof paid to laborers at Barry Block Landscape.

24. Defendant Barry Block is the Owner of Block's Nursery.

25. Defendant Barry Block directs the day-to-day business operation of Block's Nursery.

26. Defendant Barry Block has responsibility for the supervision of the laborers at Block's Nursery.

27. Defendant Barry Block is responsible for the compensation or lack thereof paid to laborers at Block's Nursery.

28. Defendant Barry Block has the authority to hire and fire employees of Barry Block Landscape, the authority to direct and supervise the work of employees of Barry Block Landscape, the authority to sign on the business' checking accounts of Barry Block Landscape, including payroll accounts of Barry Block Landscape, and the authority to make decisions regarding employee compensation and capital expenditures of Barry Block Landscape.

29. Defendant Barry Block has the authority to hire and fire employees of Block's Nursery, the authority to direct and supervise the work of employees of Block's Nursery, the authority to sign on the business' checking accounts of Block's Nursery, including payroll accounts of Block's Nursery, and the authority to make decisions regarding employee compensation and capital expenditures of Block's Nursery.

30. Additionally, Defendant Barry Block was responsible for the day-to-day affairs of both businesses.

31. Defendant Barry Block was responsible for determining whether the businesses complied with the Fair Labor Standards Act.

32. Defendant Barry Block controlled the nature, pay structure, and employment relationship of the Plaintiff and Class Members.

33. At all times relevant hereto, Defendant Barry Block assigned Plaintiff his duties on a day to day basis and interchangeably assigned him to perform work for both Block's Nursery and Barry Block Landscaping.

BACKGROUND FACTS

34. Plaintiff was jointly employed by Barry Block Landscaping as a Laborer during the relevant time from on or about year 2011 through on or about March 2017.

35. Plaintiff was jointly employed by Block's Nursery as a Laborer during the relevant time from on or about year 2011 through on or about March 2017.

36. During the relevant time period from on or about year 2011 through on or about March 2017, Plaintiff was employed as a full-time employee and worked approximately sixty (60) hours per week at an hourly rate between \$10.00 and \$14.00.

37. Throughout the relevant period, Plaintiff was not paid proper overtime premiums for all hours worked over 40 hours per week.

38. Throughout the relevant period, Defendant Block regularly required employees, including Plaintiff, to perform overtime work for Corporate Defendants, Barry Block Landscaping and Block's Nursery.

39. Throughout the relevant period, and in violation of state and federal law, Defendants knowingly permitted, encouraged, and required Plaintiff to work overtime hours without properly paying him proper overtime wages.

40. Plaintiff estimates that he worked on average, at least twenty (20) unpaid overtime hours per week for Defendants.

41. Despite the fact that Defendants were a joint enterprise and/or jointly employed Plaintiff and their other employees, Defendants failed to pay Plaintiff and other similarly situated employees proper overtime when they worked in excess of 40 hours per week for the combined entities.

ENTERPRISE AND INDIVIDUAL COVERAGE

42. At all material times, Defendants were each an enterprise engaged in commerce or in the production of goods for commerce within the meaning of the FLSA because they have had employees engaged in commerce. 29 U.S.C. § 203(s)(1).

43. At all material times, each Defendant was an enterprise engaged in commerce or in the production of good for commerce and subject to the enterprise coverage of the FLSA.

44. Specifically, Defendants' employees have sold goods—such as trees and a variety of plants—that have been moved or produced in interstate commerce to Defendants' patrons. Additionally, Defendants' employees, including Plaintiff, have handled materials that have been moved or produced in interstate commerce, which were used in the course of Defendants' business operations.

45. Defendants advertise on the internet and process credit cards from out of state patrons.

46. At all times relevant hereto, Defendants have had, and continue to have, a combined annual gross business volume in excess of \$500,000.00 per annum.

47. At all times relevant hereto, each Defendant has had, and continues to have, an annual gross business volume in excess of \$500,000.00 per annum.

48. At all material times, Plaintiff was an individual employee who engaged in commerce or in the production of goods for commerce as required by 29 USC § 206-207.

FLSA COLLECTIVE ACTION ALLEGATIONS

49. Plaintiff brings a collective action pursuant to 29 U.S.C. §216(b) on behalf of a proposed collective defined to include:

All non-exempt employees employed during the maximum limitations period by Defendants who worked in excess of 40 hours per week for the combined entities but whom were not paid time and one half their regular rate of pay for all such hours worked in excess of 40 each week.

50. Plaintiff is a member of the proposed collective he seeks to represent, because he worked for Defendants as a Laborer during the relevant period and suffered the overtime violation alleged above relating to time work in excess of his forty (40) hour work week.

51. This action may be properly maintained as a collective action on behalf of the putative Class because, during the relevant period:

- a. Plaintiff and the Class members had the same employers;
- b. Plaintiff and the Class members were governed by the same compensation policies, practices and systems;
- c. Plaintiff and the Class members were subjected to the same policies relating to overtime work;
- d. Plaintiff and the Class members were governed by the same payroll policies, practices and systems;
- e. Plaintiff and the Class members were working for joint-enterprises;

52. Plaintiff estimates that the collective group, including both current and former employees over the relevant period, will include at least 500 members. The precise number of

members should be readily available from Defendants' personnel, scheduling, time and payroll records, and from input received from the Class members as part of the notice and "opt-in" process provided by 29 U.S.C. §216(b). Given the composition and size of the Class, its members may be informed of the pendency of this action directly via U.S. mail, e-mail and/or the posting of written notices at Defendants' work sites.

CLAIMS FOR RELIEF

**COUNT I - VIOLATION OF THE FAIR LABOR STANDARDS ACT
(On Behalf Of The FLSA Collective)**

53. Plaintiff repeats, re-alleges and incorporates by reference each of the foregoing allegations as though fully set forth herein.

54. Defendants are an "employer" as defined by 29 U.S.C. § 203(d).

55. Plaintiff is an "employee" as defined by 29 U.S.C. § 203(e)(1).

56. The wages Defendants paid to Plaintiff and the collective group members are "wages" as defined by 29 U.S.C. § 203(m).

57. Defendants are an "enterprise" engaged in commerce within the meaning of 29 U.S.C. § 203(r).

58. Plaintiff and the collective group members are similarly situated individuals within the meaning of 29 U.S.C. §216(b) with the FLSA's requirements, and Plaintiff and the collective group members were covered employees entitled to the FLSA's protections.

59. Defendant failed to compensate Plaintiff and other similarly situated employees for overtime wages. Plaintiff and the collective group members regularly worked for Defendant for more than 40 hours in some weeks but were not paid proper overtime premiums in violation of FLSA, 29 U.S.C. § 207(a)(1).

60. Throughout the relevant period, Defendants paid Plaintiff at a rate between \$10.00 and \$14.00 per hour.

61. Throughout the time period, Defendants were obligated to comply with the FLSA requirements, Plaintiff was a covered employee entitled to the FLSA's protections, and Plaintiff was not exempt from receiving wages required by the FLSA for any reason.

62. Defendants violated the FLSA by knowingly permitting Plaintiff to work overtime hours without paying a properly-calculated overtime premium wage for each overtime hour he worked in excess of a forty (40) hour work week.

63. In failing to ensure that Plaintiff actually received all overtime wages owed, Defendants acted knowingly and with reckless disregard of clearly applicable FLSA provisions.

64. Defendants have no good faith justification or defense for failing to pay Plaintiff and the collective group members all wages mandated by the FLSA.

65. Pursuant to the FLSA, Plaintiff is entitled to recover from Defendants the unpaid overtime wages and liquidated damages equal in amount Plaintiff and the collective group's unpaid overtime wages, plus attorney's fees and costs.

COUNT II - VIOLATION OF NEW YORK LABOR LAW §§ 650 *et seq.*

66. Plaintiff repeats, re-alleges and incorporates by reference each of the foregoing allegations as though fully set forth herein.

67. NYLL § 652 requires that every employee must be paid for "each hour worked" by their employer.

68. Through their conduct described above, Defendants have engaged in a widespread pattern, policy, and practice of violating the NYLL.

69. At all relevant times, Plaintiff has been an employee of Defendants, and Defendants have been the employer of Plaintiff within the meaning of the NYLL §§ 650 *et seq.*

70. Through their knowing or intentional failure to pay agreed upon hourly wages to Plaintiff, Defendants have willfully violated the NYLL, Article 19, §§ 650 *et seq.*

71. Defendants regularly required Plaintiff to work overtime hours without due compensation.

72. Plaintiff was required to work for Defendants and was not properly paid for all hours worked.

73. NYLL § 663(1) provides that Plaintiff and all other employees are entitled to recover the amount of any such underpayments.

74. NYLL § 663(1) further provides that Plaintiff is entitled to an award of his costs incurred in pursuing this claim, an award of reasonable attorneys' fees incurred in pursuing this claim and an award of prejudgment interest at the applicable rate.

75. Under NYLL § 663(1), Defendants are liable for a penalty in the amount of 100% of the total of the amount due during the relevant period as Defendants cannot prove a good faith basis to believe that its underpayment was in compliance with the law.

76. Due to Defendants' willful violations of the NYLL, Plaintiff is entitled to recover from Defendants his unpaid wages, liquidated damages as provided for by the NYLL, reasonable attorneys' fees, costs, and pre-judgment and post-judgment interest.

COUNT III - VIOLATION OF THE NYLL § 650 AND NYCRR § 142-2

77. Plaintiff repeats, re-alleges and incorporates by reference each of the foregoing allegations as though fully set forth herein.

78. Through their conduct described above, Defendants have engaged in a widespread pattern, policy, and practice of violating the NYLL.

79. At all relevant times, Plaintiff has been an employee of Defendants, and Defendants have been the employer of Plaintiff within the meaning of the NYLL §§ 650 *et seq.*

80. Through their knowing or intentional failure to pay proper overtime wages to Plaintiff, Defendants have willfully violated the NYLL, Article 19, §§ 650 *et seq.*, and the supporting New York State Department of Labor Regulations.

81. NYLL § 650 *et seq.* confers power upon the Commissioner of Labor and the wage board to recommend regulations with respect to overtime rates.

82. Accordingly, NYCRR § 142-2 provides for overtime rate compensation within the state of New York.

83. Plaintiff is an “Employee” of Defendants as defined by NYCRR § 142-2.14.

84. NYCRR § 142-2.2 requires an employer to “pay an employee for overtime at a wage rate of one and one-half times the employees regular rate . . .” in accordance with, and subject to the exemptions of sections 7 and 13 of 29 U.S.C. 201 *et seq.*, the Fair Labor Standards Act of 1938, as amended.

85. Defendants failed to pay Plaintiff the required overtime rate when he worked more than forty (40) hours per week.

86. Accordingly, Plaintiff performed work for which he was not properly compensated, and work of which Defendants had actual or constructive knowledge.

87. Defendants have no good faith justification or defense for failing to pay Plaintiff and the collective group members all wages mandated by the NYCRR.

88. NYLL § 663(1) provides that Plaintiff and all other employees are entitled to recover the amount of any such underpayments.

89. NYLL § 663(1) further provides that Plaintiff is entitled to an award of his costs incurred in pursuing this claim, an award of reasonable attorneys' fees incurred in pursuing this claim and an award of prejudgment interest at the applicable rate.

90. Under NYLL § 663(1) Defendants are liable for a penalty in the amount of 100% of the total of the amount due during the relevant period as Defendant cannot prove a good faith

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for an Order:

- A. Conditionally certifying this matter to proceed as a collective action pursuant to 29 U.S.C. 216(b);
- B. requiring Defendants to provide the names and current (or best known) addresses of all members of the identified Collective and Class;
- C. finding that Defendants willfully violated the applicable provisions of the FLSA by failing to pay all required wages to Plaintiff and the collective group members;
- D. finding that Defendants willfully violated the applicable provisions of the NYLL by failing to pay all required wages to Plaintiff and the New York Class members;
- E. granting judgment in favor of Plaintiff and the members of the collective group and Class on all Counts;
- F. awarding all available compensatory damages in an amount to be determined;
- G. awarding all available statutory damages;
- H. awarding an equal amount of liquidated damages as provided by the FLSA;

- I. awarding reasonable attorneys' fees and reimbursement of all costs and expenses incurred in litigating this action;
- J. awarding all available equitable and injunctive relief precluding the continuation of the policies and practices pled in this Complaint;
- K. awarding any further relief the Court deems just, necessary and proper;
- L. granting leave to add additional plaintiffs by motion, the filing of written consent forms, or any other method approved by the Court; and
- M. maintaining jurisdiction over this action to ensure Defendant's compliance with the foregoing.

DEMAND FOR JURY TRIAL

Plaintiff, by and through his undersigned counsel, hereby demands a jury trial in the above-captioned matter.

Dated: December 7, 2017.

Respectfully submitted,

/s/ Andrew R. Frisch

Andrew R. Frisch, Esq.

NY Bar No.: 3957115

MORGAN & MORGAN, P.A.

600 North Pine Island Road, Suite 400

Plantation, Fl. 33324

Tel: 954-WORKERS

Fax: 954-327-3013

E-mail: AFrisch@forthepeople.com

JS 44 (Rev. 11/27/17)

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

ANGEL SAMANIEGO

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

Andrew R. Frisch, Esq. / Morgan & Morgan
600 N Pine Island Road, Suite 400, Plantation FL 33324
Ph: 954-327-5355

DEFENDANTS

LANDSCAPE DESIGN & CONTRACTING INC., BLOCK'S NURSERY, INC. and BARRY BLOCK

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

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

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

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

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

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

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

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq. ("FLSA") and New York State local laws.
 Brief description of cause:
 Non-payment of proper overtime compensation.

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: 1/1/18 SIGNATURE OF ATTORNEY OF RECORD: Andrew R. Frisch

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, ANDREW R. FRISCH, counsel for ANGEL SAMANIEGO, 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:

There is no such corporation.

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? Yes 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? Yes 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 No
 - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:

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? Yes No

(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: 

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

ANGEL SAMANIEGO

Plaintiff(s)

v.

LANDSCAPE DESIGN & CONTRACTING INC.
BLOCK'S NURSERY, INC.
BARRY BLOCK

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) LANDSCAPE DESIGN & CONTRACTING INC.
Barry Block, Registered Agent
2 Tuthill Point Farm Rd
East Moriches, New York 11940

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:

Andrew R. Frisch, Esq.
MORGAN & MORGAN
600 N Pine Island Road, Suite 400
Plantation, FL 33324
Ph: 954-327-5355 / Fax: 954-327-3013

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.

DOUGLAS C. PALMER
CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

ANGEL SAMANIEGO

Plaintiff(s)

v.

LANDSCAPE DESIGN & CONTRACTING INC.
BLOCK'S NURSERY, INC.
BARRY BLOCK

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) LANDSCAPE DESIGN & CONTRACTING INC.
Barry Block, Registered Agent
2 Tuthill Point Farm Rd
East Moriches, New York 11940

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:

Andrew R. Frisch, Esq.
MORGAN & MORGAN
600 N Pine Island Road, Suite 400
Plantation, FL 33324
Ph: 954-327-5355 / Fax: 954-327-3013

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.

DOUGLAS C. PALMER
CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

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

UNITED STATES DISTRICT COURT
for the
Eastern District of New York

ANGEL SAMANIEGO

Plaintiff(s)

v.

LANDSCAPE DESIGN & CONTRACTING INC.
BLOCK'S NURSERY, INC.
BARRY BLOCK

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) BARRY BLOCK
2 Tuthill Point Farm Rd
East Moriches, New York 11940

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:

Andrew R. Frisch, Esq.
MORGAN & MORGAN
600 N Pine Island Road, Suite 400
Plantation, FL 33324
Ph: 954-327-5355 / Fax: 954-327-3013

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.

DOUGLAS C. PALMER
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: [Landscape Design & Contracting, Block's Nursery Facing Former Employee's Unpaid OT Claims](#)
