

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

SOTHA SOK, on behalf of himself  
and others similarly situated,

Plaintiff,

v.

SEPTIC 2010 LLC, a Florida Limited Liability Company,  
and JOHN THAU, individually,

Defendants.

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**COMPLAINT**

1. Plaintiff, SOTHA SOK (hereinafter referred to as “Plaintiff”), is an individual residing in Palm Beach County, Florida.

2. Defendants, SEPTIC 2010 LLC (“SEPTIC 2010”), a Florida Limited Liability Company, and JOHN THAU, at all times material to this Complaint have maintained a principal address at 600 Fairview Drive, Suite 106-107, Deerfield Beach, Florida 33441 and operated a business specializing in selling septic treatment products.

3. Defendant, JOHN THAU (“THAU”), has at all times material to this Complaint owned, managed, and operated SEPTIC 2010 and Defendant THAU has regularly exercised the authority to hire and fire Plaintiff and Defendants’ other employees, determined the manner in which Plaintiff and Defendants’ other employees are compensated, determined how Plaintiff’s and Defendants’ other employees’ hours worked are tracked or recorded, set the rates of pay of Plaintiff and Defendants’ other employees, and controlled the finances and operations of SEPTIC 2010. By virtue of such control and authority, Defendant THAU is an employer of Plaintiff and the other similarly situated employees within the meaning of the Fair Labor Standards Act, 29 U.S.C.

§203(d).

4. Plaintiff brings this action on behalf of himself and other current and former sales representatives, however variously titled, of SEPTIC 2010 and JOHN THAU (collectively referred to as “Defendants”) for overtime wages, liquidated damages, and the costs and reasonable attorneys’ fees of this action under the provisions of the Fair Labor Standards Act (“FLSA”), as amended, 29 U.S.C. §216(b).<sup>1</sup>

5. At all times material to this Complaint Defendants have acted in the interest of an employer toward Plaintiff and the other similarly situated employees within the meaning of the Fair Labor Standards Act, 29 U.S.C. §203(d), including without limitation directly or indirectly controlling the terms of employment and compensation of Plaintiff and the other employees similarly situated to him.

6. Jurisdiction is conferred on this Court by 29 U.S.C. §216(b) and 28 U.S.C. §1337.

7. A substantial part of the events giving rise to this action, occurred in Broward County and Palm Beach County, Florida within the jurisdiction of the United States District Court for the Southern District of Florida.

8. At all times material to this Complaint, including but not necessarily limited to during the years 2014, 2015, 2016 and 2017, SEPTIC 2010 has had two (2) or more employees who have regularly sold, handled, or otherwise worked on goods and/or materials that had been moved in or produced for commerce. In this regard, Plaintiff alleges based upon information and belief and subject to discovery, that at all times material to this Complaint, SEPTIC 2010 has employed two (2) or more employees who, *inter alia*, have regularly: (a) handled, worked on, and/or sold septic treatment products—including but not limited to the products known as “Septic

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<sup>1</sup> Attached hereto is a signed Consent to Join of Plaintiff SOK.

Savior,” “Enza Power,” “Fresh Tech,” “Enza Clene Concentrate,” and “Septi Kleen”—which constitute goods and/or materials that were moved in or produced for commerce; (b) handled and worked with commercial office equipment and supplies—including but not limited to paper, pens, computers, photocopier/scanner, printers, and telephones,—that were goods and/or materials moved in or produced for commerce; and (c) regularly processed and participated in credit card and electronic bank and/or transfers and transactions across Florida and other State lines including but not limited to customer payments to Defendants for septic treatment products.

9. Based upon information and belief, the annual gross sales volume of SEPTIC 2010 has been in excess of \$500,000.00 per annum at all times material to this Complaint, including but not necessarily limited to during the years 2014, 2015, 2016 and 2017.

10. At all times material to this Complaint, including but not necessarily limited to during the years 2014, 2015, 2016 and 2017, SEPTIC 2010 has constituted an enterprise engaged in interstate commerce or in the production of goods for commerce as defined by the FLSA, 29 U.S.C. §203(s).

11. During the three (3) year statute of limitations period between approximately September 2014 and June 2017, Plaintiff’s primary duties for Defendants were non-exempt telephone sales to customers for re-orders and/or orders of septic treatment products.

12. During numerous work weeks within the three (3) year statute of limitations period between approximately September 2014 and June 2017, Plaintiff worked in excess of Forty (40) hours per week for Defendants but was not paid time and one-half of his regular rate of pay inclusive of both his hourly and commission wages for all of Plaintiff’s overtime hours worked for Defendants.

13. Instead, Defendants paid Plaintiff based upon a regular hourly rate of approximately \$9.00 per hour plus commissions but Defendants only paid overtime wages at the rate of approximately \$13.50 per hour [1.5 x \$9.00/hour] and failed to include earned commissions when calculating Plaintiff's and other similarly situated sales representatives' applicable overtime rates as required by the FLSA, 29 C.F.R. 778.18, such that Defendants' compensation practices have violated the FLSA by not accounting for the impact commissions have on the increased, applicable overtime rates due and owing to Plaintiff and the other similarly situated employees.

14. During the three (3) year statute of limitations period between September 2014 and June 2017, Plaintiff regularly worked Six (6) days per week for Defendants with start times of approximately 8:00 a.m. and stop times between approximately 2:30 p.m. and 10:00 p.m., averaging between approximately Fifty (50) to Sixty (60) hours per week.

15. The additional persons who may become Plaintiffs in this action are Defendants' current and former non-exempt sales representatives, however variously titled, who have worked for Defendants in one or more weeks between September 2014 and the present without being paid time and one-half wage of their applicable regular rates of pay inclusive of both hourly and commission wages for all of their actual hours worked in excess of Forty (40) hours per week during one or more work weeks within the three (3) year statute of limitations period.

16. At all times material to this Complaint, Defendants had knowledge of the actual hours worked by Plaintiff and other similarly situated non-exempt sales representatives in multiple work weeks between September 2014 and the present, all of which work was for the benefit of Defendants. Nonetheless, Defendants knowingly and willfully failed to compensate Plaintiff and the other similarly situated sales representatives with the overtime wages required by the FLSA for all of their actual overtime hours worked, instead accepting the benefits of the work performed

by Plaintiff and the others similarly situated to him without Defendants paying the overtime compensation required by the Act.

17. Based upon information and belief, records of the start times, stop times, number of hours worked each day, and total hours worked each week by Plaintiff and the other similarly employees for Defendants between September 2014 and the present are in the possession, custody, and/or control of Defendants.

18. The complete records concerning the compensation actually paid to Plaintiff and the other similarly situated employees between September 2014 and the present are in the possession, custody, and/or control of Defendants.

**COUNT I**  
**OVERTIME VIOLATIONS OF THE FAIR LABOR STANDARDS ACT**

19. Plaintiff, SOTHA SOK, readopts and realleges the allegations contained in Paragraphs 1 through 18 above.

20. Plaintiff is entitled to be paid time and one-half of his applicable regular rate(s) of pay inclusive of both his hourly and commission wages for each and every hour he worked for Defendants in excess of Forty (40) hours per work week during the three (3) year statute of limitations period between September 2014 and June 2017.

21. All similarly situated current and former non-exempt sales representatives, however variously titled, who have worked in excess of Forty (40) hours per week for Defendants in one or more weeks between September 2014 and the present are also entitled to be paid time and one-half of their applicable regular rates of pay inclusive of both their hourly and commission wages for each and every overtime hour they worked for Defendants but were not properly compensated for working on Defendants' behalf during any work weeks within the three (3) year statute of limitations period.

22. At all times material to this Complaint, Defendants have had notice that their compensation practices did not provide Plaintiff and the other similarly situated non-exempt sales representatives with all of the overtime compensation required by the FLSA inclusive of both their regular hourly and commission wages for hours worked in excess of Forty (40) hours per week.

23. By reason of the intentional, willful and unlawful acts of Defendants, all Plaintiffs (the named Plaintiff and those similarly situated to him) have suffered damages plus incurring costs and reasonable attorneys' fees.

24. Defendants did not have a good faith basis for their failure to pay time and one-half wages for all of the actual overtime hours worked by Plaintiff and Defendants' other non-exempt sales representatives, however variously titled, as a result of which Plaintiff and the other similarly situated employees are entitled to the recovery of liquidated damages from Defendants pursuant to 29 U.S.C. §216(b).

25. Plaintiff has retained the undersigned counsel to represent him in this action, and pursuant to 29 U.S.C. §216(b), Plaintiff is entitled to recover from Defendants all reasonable attorneys' fees and costs incurred as a result of Defendants' violations of the FLSA.

26. Plaintiff demands a jury trial.

WHEREFORE, Plaintiff, SOTHA SOK, and any current or former non-exempt employees similarly situated to him who join this action as Opt-In Plaintiffs, demand judgment, jointly and severally, against Defendants, SEPTIC 2010 LLC and JOHN THAU, for the payment of all unpaid overtime compensation, liquidated damages, reasonable attorneys' fees and costs of suit, and for all proper relief including prejudgment interest.

**JURY TRIAL DEMAND**

Plaintiff demands trial by jury on all issues so triable.

Dated: September 8, 2017

Respectfully submitted,

By: **s/KEITH M. STERN**  
Keith M. Stern, Esquire  
Florida Bar No. 321000  
E-mail: [employlaw@keithstern.com](mailto:employlaw@keithstern.com)  
Hazel Solis Rojas, Esquire  
Florida Bar No. 91663  
E-mail: [hsolis@workingforyou.com](mailto:hsolis@workingforyou.com)  
LAW OFFICE OF KEITH M. STERN, P.A.  
One Flagler  
14 NE 1st Avenue, Suite 800  
Miami, Florida 33132  
Telephone: (305) 901-1379  
Facsimile: (561) 288-9031  
Attorneys for Plaintiff

**CONSENT TO JOIN FORM**

1. I consent to be a party plaintiff in a lawsuit against Defendant(s), **Septic 2010 LLC and John Thau**, as well as any related entities and individuals, to seek recovery for violations of the Fair Labor Standards Act (FLSA) pursuant to 29 U.S.C. §216(b) *et seq.*

2. I hereby designate the Law Office of Keith M. Stern, P.A. to represent me in bringing my FLSA claims and to make decisions on my behalf concerning the litigation and settlement of these claims. I agree to be bound by any adjudication by the Court, whether it is favorable or unfavorable.

3. I also consent to join any other related action against Defendant(s), or any other potentially responsible parties, to assert my FLSA claims and for this Consent Form to be filed in any such action.

**Sotha Sok**  
Printed Name

Signature:   
Sotha Sok (Jul 28, 2017)

Email: sotha.sok@protonmail.com



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 SOTHA SOK

DEFENDANTS SEPTIC 2010 LLC and JOHN THAU

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

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.

(c) Attorneys (Firm Name, Address, and Telephone Number) Law Office of Keith M. Stern, P.A., Keith M. Stern, Esq., One Flagler - 14 NE 1st Avenue, Suite 800, Miami, FL 33132, Tel: (305) 901-1379

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

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

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
4 4
5 5
6 6

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

Grid of legal categories including CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PERSONAL INJURY, TORTS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, LABOR, 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 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

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. 207 - Action for Overtime Wages

LENGTH OF TRIAL via 2-3 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: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE September 8, 2017 SIGNATURE OF ATTORNEY OF RECORD s/Keith M. Stern

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

SOTHA SOK, on behalf of himself
and others similarly situated,

Plaintiff(s)

v.

SEPTIC 2010 LLC, a Florida Limited Liability
Company, and JOHN THAU, individually,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

SEPTIC 2010 LLC
c/o Registered Agent, Glen Bergard
6421 Congress Avenue, Suite 207
Boca Raton, Florida 33487

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:

Keith M. Stern, Esq.
Law Office of Keith M. Stern, P.A.
One Flagler - 14 NE 1st Avenue, Suite 800
Miami, Florida 33132
Tel: (305) 901-1379

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

SOTHA SOK, on behalf of himself
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Plaintiff(s)

v.

SEPTIC 2010 LLC, a Florida Limited Liability
Company, and JOHN THAU, individually,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

JOHN THAU
600 Fairview Drive, Suite 107
Deerfield Beach, Florida 33441

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:

Keith M. Stern, Esq.
Law Office of Keith M. Stern, P.A.
One Flagler - 14 NE 1st Avenue, Suite 800
Miami, Florida 33132
Tel: (305) 901-1379

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

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\_\_\_\_\_ 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)* \_\_\_\_\_  
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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:

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Septic 2010 Backed Up with Unpaid Overtime Lawsuit](#)

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