

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.:

MARCOS J. BRITTON,
ARLYN E. LOPEZ
and other similarly situated individuals,

Plaintiffs,

v.

17TH AVE FOODS & GROCERY LLC,
d/b/a FRIENDS MEAT MARKET,
JOSHUA AKREAM, and
MOHAMED WASHAM, individually

Defendants,

_____ /

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

COME NOW the Plaintiffs MARCOS J. BRITTON and ARLYN E. LOPEZ, and other similarly situated individuals, by and through the undersigned counsel, and hereby sue Defendants 17TH AVE FOODS & GROCERY, LLC, d/b/a FRIENDS MEAT MARKET, JOSHUA AKREAM, and MOHAMED WASHAM, individually, and allege:

JURISDICTION VENUES AND PARTIES

1. This is an action to recover money damages for unpaid regular and overtime wages and retaliation under the laws of the United States. This Court has jurisdiction pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201-219 (Section 216 for jurisdictional placement) ("the Act").

2. Plaintiffs MARCOS J. BRITTON and ARLYN E. LOPEZ are residents of Miami-Dade County within the jurisdiction of this Court. Plaintiffs were employees of Defendants within the meaning of the FLSA.
3. Corporate Defendant 17TH AVE FOODS & GROCERY, LLC, d/b/a FRIENDS MEAT MARKET (hereinafter FRIENDS MEAT MARKET, or Defendant) is a Florida corporation having a place of business in Dade County, Florida. At all times, Defendant was engaged in interstate commerce.
4. The individual Defendants JOSHUA AKREAM, and MOHAMED WASHAM, are the owners/partners/ and managers FRIENDS MEAT MARKET. These individual Defendants are the employers of Plaintiffs within the meaning of Section 3(d) of the "Fair Labor Standards Act" [29 U.S.C. § 203(d).
5. All the actions raised in this Complaint took place in Dade County, Florida, within this Court's jurisdiction.

GENERAL ALLEGATIONS

6. This cause of action is brought by Plaintiffs MARCOS J. BRITTON and ARLYN E. LOPEZ to recover from Defendants unpaid regular wages and overtime compensation, liquidated damages, retaliatory damages, costs, and reasonable attorney's fees under the provisions of the Fair Labor Standards Act, as amended, 29 U.S.C. § 201 *et seq* (the "FLA or the "ACT").
7. Defendant FRIENDS MEAT MARKET is a supermarket and cafeteria. Defendant has a place of business located at 6101 NW 17th Avenue, Miami, Florida 33142, where both Plaintiffs worked.

8. Defendants FRIENDS MEAT MARKET, JOSHUA AKREAM, and MOHAMED WASHAM employed Plaintiff MARCOS J. BRITTON as a non-exempted full-time hourly employee from approximately February 12, 2022, to April 28, 2022, or 11 weeks. Plaintiff had duties as a supermarket employee, he had multiple duties as a supermarket attendant, kitchen helper, and maintenance employee. Plaintiff was paid a salary of \$750.00 weekly
9. Defendants FRIENDS MEAT MARKET, JOSHUA AKREAM, and MOHAMED WASHAM employed Plaintiff ARLYN E. LOPEZ as a non-exempted full-time hourly employee from approximately January 24, 2022, to April 28, 2022, or 13 weeks. Plaintiff has duties as a cook, supermarket attendant, and cleaning employee. Plaintiff was paid a salary of \$720.00 weekly.
10. While employed by Defendants, Plaintiffs worked more than 40 hours every week, but they were not paid for their wages as required by law.
11. Plaintiffs had a regular and mandatory schedule, and they worked six days per week. Plaintiffs worked from 7:00 AM to 10:00 PM (15 hours daily) from Monday to Saturday, or a total of 90 hours weekly. Plaintiffs were unable to take bonafide lunchtime.
12. Plaintiff MARCOS J. BRITTON was paid \$750.00 weekly, and Plaintiff ARLYN E. LOPEZ was paid \$720.00 weekly.
13. The fixed amount paid weekly to Plaintiffs divided by 90 working hours per week, resulted in a wage rate lower than the minimum wage rate required by law.
14. Furthermore, Plaintiffs worked routinely and consistently 90 hours weekly. However, Defendants did not pay Plaintiffs for overtime hours, as required by the FLSA.

15. Plaintiffs did not clock in and out, but Defendants were able to monitor the hours worked by Plaintiffs and other similarly situated individuals. Defendants knew about the number of hours worked by Plaintiffs. Defendants were in complete control of the Plaintiffs' schedule, and time records and they knew the real number of hours that Plaintiffs and other similarly situated individuals were working.
16. Therefore, Defendants willfully failed to pay Plaintiffs minimum wages in violation of 29 U.S.C. §206 (a) of the Fair Labor Standards Act. Defendants also failed to pay Plaintiffs overtime wages at the rate of time and a half their regular rate for every hour that they worked in excess of forty (40), in violation of Section 7 (a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(a)(1)).
17. Plaintiffs were paid weekly strictly in cash, without paystubs or any record providing basic information about the number of days and hours worked, wage rate paid, employee taxes deducted, etc.
18. Plaintiffs MARCOS J. BRITTON and ARLYN E. LOPEZ are husband and wife. Plaintiffs complained verbally many times to their supervisors JOSHUA AKREAM, and MOHAMED WASHAM. Plaintiffs complained about the lack of payment for overtime hours.
19. On or about April 16, Plaintiffs complained about overtime to JOSHUA AKREAM, for the last time.
20. On or about April 28, 2022, a co-worker maliciously caused an altercation with Plaintiff MARCOS J. BRITTON and attacked him with a broom. As a result, Defendants JOSHUA AKREAM and MOHAMED WASHAM unfairly fired Plaintiff MARCOS J. BRITTON and his wife ARLYN E. LOPEZ.

21. At the time of their termination, Plaintiffs MARCOS J. BRITTON, and ARLYN E. LOPEZ were not paid for their last two weeks of work.
22. Plaintiffs are not in possession of time and payment records, but they will provide a good faith estimate of unpaid wages based on their recollections. Plaintiffs will amend their Complaint accordingly when Defendants produce time and payment records.
23. Plaintiffs MARCOS J. BRITTON and ARLYN E. LOPEZ intend to recover regular unpaid wages, overtime wages for every hour in excess of 40 in a week, liquidated damages, retaliatory damages, and any other relief as allowable by law.
24. The additional persons who may become Plaintiffs in this action are employees and/or former employees of Defendants who are and who were subject to the unlawful payroll practices and procedures of Defendants and were not paid minimum wages and overtime wages at the rate of time and one half of their regular rate of pay for all overtime hours worked in excess of forty.

COUNT I:
WAGE AND HOUR FEDERAL STATUTORY VIOLATION;
FAILURE TO PAY OVERTIME; AGAINST ALL DEFENDANTS

25. Plaintiffs J MARCOS J. BRITTON and ARLYN E. LOPEZ re-adopt every factual allegation as stated in paragraphs 1-24 above as if set out in full herein.
26. This cause of action is brought by Plaintiffs as a collective action to recover from Defendants overtime compensation, liquidated damages, costs, and reasonable attorney's fees under the provisions of the Fair Labor Standards Act, as amended, 29 U.S.C. § 201 *et seq* (the "FLA or the "ACT"), on behalf of Plaintiff and all other current and former employees similarly situated to Plaintiff ("the asserted class") and who worked in excess of forty (40) hours during one or more weeks on or after January

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