

Allen v. McWane, Inc., 593 F.3d 449, 452 (5th Cir. 2010) (“Additionally, we construe the FLSA liberally in favor of employees....”).

2. Plaintiff brings this action to recover for violations of the FLSA. Plaintiff and the Class Members were employed by Defendants as wait staff employees and, except for the lunch shift during which Plaintiff was paid \$5.00 per hour, Defendants failed to pay Plaintiff and the other Class Members any wages whatsoever. During all times other than the lunch shift, Defendants required the Plaintiff and the Class Members to work solely for “tips” in violation of the FLSA. This improper practice/policy results in the wait staff, such as Plaintiff and the putative Class Members, not being paid minimum wage or overtime compensation for all hours worked up to and over forty (40) hours in a workweek.
3. Defendants’ conduct violates the FLSA, which requires non-exempt employees, such as Plaintiff, to be compensated at a minimum wage, see 29 U.S.C. § 206(a), and to be compensated for their overtime work at a rate of one and one-half times their regular rate of pay. See 29 U.S.C. § 207(a).
4. Furthermore, Defendants’ practice of failing to pay tipped employees pursuant to 29 U.S.C. § 203(m), violates the FLSA’s minimum wage provision.
5. Plaintiff brings a collective action to recover the unpaid wages owed to her and all other similarly situated employees, current and former, of Defendants who worked at either Saviano’s location at any time during the three year period before this Complaint was filed. These Class Members should be informed of the pendency of this action and apprised of their rights to join in the manner envisioned by *Hoffman-La Roche Inc. v. Sperling*, 493 U.S. 165 (1989) and its progeny.

B. Parties.

6. Plaintiff is an individual who was employed by Defendants within the meaning of the FLSA within the three year period preceding the filing of this Complaint.

Plaintiff lives in the Northern District of Texas. Plaintiff's written consent to become a party plaintiff is attached as Exhibit "A."

7. The "Class Members" are other wait staff or bartending individuals who were classified by Defendants as contractors or who worked for Defendant but were paid "tips" only and were not paid the minimum wage or overtime within the actionable time period.
8. Saviano's is a business operating under the laws of Texas, whose office address is 300 North Main Street, Euless, Texas 76039. Defendant Saviano's may be served by serving its owner Saverio Alfieri at his place of business at 300 North Main Street, Euless, Texas 76039.
9. Alfieri is an individual residing in the Northern District of Texas. He may be served at his place of business at 300 North Main Street, Euless, Texas 76039.

C. Jurisdiction and Venue.

10. Venue of this action is proper in this district and division because the events giving rise to the cause of action alleged herein occurred in this division and judicial district. Venue exists in the judicial district pursuant to 28 U.S.C. § 1391.
11. Defendants carry on substantial business in the Northern District of Texas and have sufficient minimum contacts with this state to be subject to this Court's jurisdiction.
12. This Court has jurisdiction over this case pursuant to the district court's federal question jurisdiction as set forth in 28 U.S.C. § 1331. Specifically, this case is brought pursuant to the FLSA, 29 U.S.C. § 201 *et seq.*, as amended.

D. Coverage.

13. At all material times, Defendants have acted, directly or indirectly, in the interest of an employer with respect to Plaintiff and the Class Members.
14. At all times hereinafter mentioned, Defendants have been an employer within the meaning of the Section 3(d) of the FLSA, 29 U.S.C. § 203(d).
15. At all times hereinafter mentioned, Defendants have been an enterprise within the meaning of Section 3(r) of the FLSA, 29 U.S.C. § 203(r).
16. At all times hereinafter mentioned, Defendants have been an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Section 3(s)(1) of the FLSA, 29 U.S.C. § 203(s)(1), in that said enterprise has had employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person and in that said enterprise has had and has an annual gross volume of sales made or business done of not less than \$500,000 (exclusive of excise taxes at the retail level which are separately stated).
17. Defendant Alfieri is the owner of Saviano's Pizza and had authority to set corporate policy, participate in decisions regarding the classification of employees, the payment of minimum wage and the payment of overtime as well as participate in decisions regarding whether or not to pay Plaintiff and the Class Members. In addition, Defendant Alfieri had and has operational control of significant aspects of the Defendant Saviano's day-to-day functions and independently exercised control over the work situation. He had and has direct involvement in the day-to-day operation of Defendant Saviano's and had and has some direct responsibility for the supervision of the employees.
18. Defendant Alfieri acts, and has acted, directly or indirectly, in the interests of an employer in relation to Plaintiff and the Class Members.

19. At all times hereinafter mentioned, Plaintiff was an individual employee who was engaged in commerce or in the production of goods for commerce as required by 29 U.S.C. §§ 206 -207.

E. Factual Allegations

20. Defendant Saviano's is a pizza restaurant with a current location in Euless, Texas and a previous location in Fort Worth, Texas.
21. Plaintiff was employed by Defendants at the Euless, Texas location as a wait staff employee from February, 2012 until January, 2013.
22. Plaintiff's job responsibilities as an employee of Defendants consisted of serving customers food and drink orders, as directed by Defendants in the Euless location. The primary job duties of Plaintiff and the Class Members were to perform non-exempt duties.
23. At all times while employed by Defendants, Plaintiff was under the complete direction and control of Defendants with regard to her performance of her duties and responsibilities.
24. Plaintiff's primary job duties consisted of manual tasks in the form of waiting on tables and customers and pre and post shift activities to prepare the restaurant for its customers. Plaintiff was responsible for various other non-discretionary tasks typical of the wait staff in a restaurant. These other non-discretionary tasks Plaintiff performed were routine and do not require the exercise of independent judgment or discretion.
25. During her employment by Defendants, Plaintiff received only five dollars per hour for work performed during the lunch shift and no compensation from Defendants for working the night shift. During the night shift, Defendants only allowed Plaintiff to keep the tips she received from customers and did not pay her the minimum wage or overtime as required by the FLSA.

26. Defendants did not properly implement the “tip credit” procedures as required by the FLSA. Specifically, Defendants did not provide the following information to Plaintiff:
- a. the amount of cash the Defendants were paying Plaintiff;
 - b. the additional amount claimed by Defendants as a tip credit;
 - c. that all tips received by the Plaintiff were to be retained by the Plaintiff;
and
 - d. that the tip credit did not apply to any employee unless the employee had been informed of the tip credit provisions.
27. Defendants had a company-wide practice/policy to require/permit Plaintiff and the putative Class Members to receive pay only (1) at the rate of five dollars per hour for the lunch shift; and (2) in the form of “tips” received from customers during the night shift. Some Class Members may not have received the five dollars per hour during the lunch shifts as such amounts were paid in cash and no records of the payments were kept by the Defendants.
28. At no time did Defendants inform Plaintiff that the tips she received were to be credited toward the payment of the minimum wage.
29. Defendants have kept no records of the tips received by Plaintiff.
30. During many if not all of the workweeks during which Plaintiff worked for Defendant, Plaintiff worked more than forty (40) hours during the workweek.
31. Defendants did not pay Plaintiff any overtime compensation.
32. Defendants willfully failed to post notices of the minimum wage and the overtime compensation requirements in a conspicuous place in the workplace as required by the FLSA.
33. Upon information and belief, Defendants willfully failed to keep any payroll records reflecting payments made to the Plaintiff. For the tax year 2012, Defendants did not provide a W-2 or 1099 form to Plaintiff.

34. During the relevant time period of this lawsuit, Defendants employed and continues to employ wait staff employees who are similarly situated to Plaintiff and to each other pursuant to the FLSA.
35. Defendants illegally classified the wait staff as independent contractors. However, at all times, the wait staff were employees of Defendants as that term is defined by the FLSA and relevant case law.
36. Defendants hired/fired, issued pay, supervised, directed, disciplined, scheduled and performed all other duties generally associated with that of an employer with regard to the wait staff.
37. In addition, Defendants instructed the wait staff about when, where, and how they were to perform their work.
38. To the extent that Plaintiff was classified at all by Defendants, Defendants misclassified Plaintiff as an independent contractor, despite the fact that Plaintiff:
 - a. was not required to possess any advanced skill or knowledge to perform her work for Defendants;
 - b. was required by Defendants to perform her job in a particular manner, on which Defendants trained her;
 - c. was economically dependent on Defendants;
 - d. assisted Defendants in carrying out their principal business;
 - e. was not required to make any substantial financial investment in her employment; and
 - f. received all shift assignments from Defendants.
39. The following facts further demonstrate the wait staff's status as employees:
 - a. Defendants have the sole right to hire and fire the wait staff;
 - b. Defendants supervise the wait staff;
 - c. Defendants scheduled the wait staff and as such had sole control over the wait staff's opportunity for profit; and

- d. The wait staff was hired as permanent employees and worked for Defendants for long periods of time.
- 40. Defendants misclassified Plaintiff and the Class Members as independent contractors to avoid their obligations to pay them pursuant to the FLSA.
- 41. Plaintiff and Class Members are not exempt from the overtime and minimum wage requirements under the FLSA.
- 42. Although Plaintiff and Class Members are required to and do in fact frequently work more than forty (40) hours per workweek, they are not compensated at the FLSA mandated time-and-a-half rate for hours in excess of forty (40) per workweek. In fact, other than during the lunch shifts, they receive no compensation whatsoever from Defendants and thus, Defendants violate the minimum wage requirement of the FLSA. See 29 U.S.C. § 206.
- 43. Defendants knowingly, willfully, or with reckless disregard carried out its illegal pattern or practice of failing to pay minimum wage and overtime compensation with respect to Plaintiff and the potential class members.
- 44. The FLSA requires employers to keep accurate time records of hours worked by nonexempt employees. 29 U.S.C. § 211 (c).
- 45. In addition to the pay violations of the FLSA identified above, Defendant also failed to keep proper time records as required by the FLSA.
- 46. Plaintiff has retained the Law Office of Chris R. Miltenberger, PLLC to represent her in this litigation and has agreed to pay a reasonable fee of its services.

F. Collective Action Allegations.

- 47. Other employees have been victimized by this pattern, practice, and policy which is in willful violation of the FLSA. Some of these employees have worked with Plaintiff and have reported that they were paid in the same manner as Plaintiff,

working only for tips and with no minimum wage or overtime pay. Thus, from working with other employees and from discussion with these employees, Plaintiff has actual knowledge and is aware that the illegal practices or policies of Defendants have been uniformly imposed on the Class Members.

48. The Class Members performed the same or similar job duties as Plaintiff and as each other in that they all performed wait staff or bartending duties. Moreover, these employees were not paid minimum wage or overtime pay.
49. Class Members are not exempt from receiving overtime and/or pay at the federally mandated minimum wage rate under the FLSA.
50. Defendants had a company-wide practice/policy to require/permit the Class Members to receive pay only (1) at the rate of five dollars per hour for the lunch shift; and (2) in the form of "tips" received from customers during the night shift. Some of the Class Members may not have been paid the five dollars per hour for the lunch shifts.
51. With regard to the Class Members, Defendants did not properly implement the "tip credit" procedures as required by the FLSA. Specifically, Defendants did not provide the following information to Class Members:
 - a. the amount of cash the Defendants were paying the Class Members;
 - b. the additional amount claimed by Defendants as a tip credit;
 - c. that all tips received by the Class Members were to be retained by the Class Members; and
 - d. that the tip credit did not apply to any employee unless the employee had been informed of the tip credit provisions.
52. Like Plaintiff, Class Members are also subject to Defendants' baseless classification as independent contractors.
53. Defendants' classify all (100%) of its wait staff and bartenders as independent contractors.

54. Accordingly, the Class Members victimized by Defendants' unlawful pattern and practices are similarly situated to Plaintiff in terms of job duties, pay provisions, misclassification as independent contractors, and/or the denial of overtime and minimum wage.
55. Defendants' failure to pay compensation at the rates required by the FLSA for the Plaintiff and the Class Members results from generally applicable policies or practices and does not depend on the personal circumstances of the Class Members. Thus, Plaintiff's experience is typical of the experience of the Class Members.
56. All Class Members, irrespective of their particular job requirements, are entitled to compensation for hours worked at the federally mandated minimum wage rate.
57. The specific job titles, precise job requirements or job locations of the various Class Members do not prevent collective treatment. All Class Members, regardless of their work location, precise job requirements or rates of pay, are entitled to compensation for hours worked, including overtime. Although the issue of damages may be individual in character, there is no detraction from the common nucleus of liability facts. The questions of law and fact are common to Plaintiff and the Class Members. Accordingly, the class of similarly situated plaintiffs is properly defined as:
 - a. **All wait staff and bartending individuals who worked for Defendants within the last three years who (1) were classified as independent contractors, and who were paid only in the form of "tips" and were not compensated at minimum wage for hours up to forty in a workweek or one and one-half times their regular rate of pay for all hours worked in excess of 40 hours in one or more workweeks; or (2) not officially classified as either an independent contractor or an employee and who were paid only in the form of "tips" and were not compensated at minimum wage for hours up to forty in a workweek**

or one and one-half times their regular rate of pay for all hours worked in excess of 40 hours in one or more workweeks.

58. As a collective action, Plaintiff seeks this Court's appointment and/or designation as representative of a group of similarly situated individuals as defined herein.

G. Cause of Action: Failure to Pay Wages in Accordance with the Fair Labor Standards Act.

59. Each and every allegation contained in the foregoing paragraphs 1-58, inclusive, is re-alleged as if fully rewritten herein.
60. Plaintiff has consented in writing to be a party plaintiff to this action as required by 29 USC §216 (b).
61. During the relevant period, Defendants have violated and is violating the provisions of Sections 6 and/or 7 of the FLSA, 29 U.S.C. §§ 206, 207, and 215(a)(2), by employing employees in an enterprise engaged in commerce or in the production of goods for commerce within the meaning of the FLSA as aforesaid, without paying minimum wage and for workweeks longer than forty hours without compensating such employees for their work in excess of forty hours per week at rates no less than one-and-a-half times the regular rates for which they were employed.
62. Defendants knowingly, willfully, or with reckless disregard carried out its illegal pattern or practice of failing to pay minimum wage or overtime compensation with respect to Plaintiff and the Class Members.
63. Defendants did not act in good faith or reliance upon any of the following in formulating its pay practices: (a) case law; (b) the FLSA, 29 U.S.C. § 201, et seq.; (c) Department of Labor Wage & Hour Opinion Letters; or (d) the Code of Federal Regulations.

64. Defendants' method of paying Plaintiff in violation of the FLSA was not based on a good faith and reasonable belief that their conduct complied with the FLSA. Defendants misclassified Plaintiff with the sole intent to avoid paying them in accordance to the FLSA.
65. Defendants' willfulness is exhibited by its awareness of the requirements of the FLSA but refusal to apply such requirements to Plaintiff and the Class Members and Defendants' failure to comply with any Internal Revenue Service reporting requirements with regard to W-2 or 1099 forms.
66. None of the exemptions provided by the FLSA regulating the duty of employers to pay overtime at a rate not less than one and one-half times the regular rate at which its employees are employed are applicable to the Defendants or the Plaintiff.
67. None of the exemptions provided by the FLSA regulating the duty of employers to pay employees for all hours worked at the required minimum wage rate are applicable to the Defendants or the Plaintiffs.
68. Defendants failed to keep adequate records of Plaintiff's and Class Members' work hours and pay in violation of section 211(c) of the Fair Labor Standards Act. See 29 U.S.C. § 211(c).
69. Federal law mandates that an employer is required to keep for three (3) years all payroll records and other records containing, among other things, the following information:
 - a. The time of day and day of week on which the employees' work week begins;
 - b. The regular hourly rate of pay for any workweek in which overtime compensation is due under section 7(a) of the FLSA;
 - c. An explanation of the basis of pay by indicating the monetary amount paid on a per hour, per day, per week, or other basis;
 - d. The amount and nature of each payment which, pursuant to section 7(e) of the FLSA, is excluded from the "regular rate";

- e. The hours worked each workday and total hours worked each workweek;
- f. The total daily or weekly straight time earnings or wages due for hours worked during the workday or workweek, exclusive of premium overtime compensation;
- g. The total premium for overtime hours. This amount excludes the straight-time earnings for overtime hours recorded under this section;
- h. The total additions to or deductions from wages paid each pay period including employee purchase orders or wage assignments;
- i. The dates, amounts, and nature of the items which make up the total additions and deductions;
- j. The total wages paid each pay period; and
- k. The date of payment and the pay period covered by payment.

29 C.F.R. 516.2, 516.5.

70. Defendants have not complied with federal law and have failed to maintain such records with respect to Plaintiff and Class Members. Because Defendants' records are inaccurate and/or inadequate, Plaintiff and Class Members can meet their burden under the FLSA by proving that they, in fact, performed work for which they were improperly compensated, and produce sufficient evidence to show the amount and extent of the work "as a matter of a just and reasonable inference." See, e.g., *Anderson v. Mt. Clemens Pottery Co.*, 328 U.S. 680, 687 (1946).

H. Jury Demand.

71. Plaintiff demands a trial by jury herein.

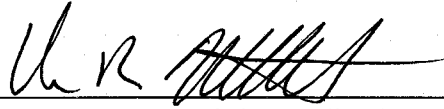
I. Relief Sought.

72. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that she and all those who consent to be opt-in plaintiffs in this collective action recover from Defendants, the following:

- a. An Order recognizing this proceeding as a collective action pursuant to Section 216(b) of the FLSA and appointing Plaintiff and her counsel to represent the Class Members;
- b. An Order requiring Defendants to provide the names, addresses and telephone numbers of all potential Class Members;
- c. An Order approving the form and content of a notice to be sent to all potential Class Members advising them of the pendency of this litigation and of their rights with respect thereto;
- d. Compensation for all hours worked up to forty hours per workweek at a rate not less than the applicable minimum wage;
- e. Overtime compensation for all unpaid hours worked in excess of forty hours in any workweek at the rate of one-and-one-half times their regular rates;
- f. All unpaid wages and overtime compensation;
- g. An award of liquidated and/or punitive damages pursuant to 29 U.S.C § 216;
- h. Reasonable attorney's fees, expert fees, costs, and expenses of this action as provided by the FLSA;
- i. Pre-judgment and post-judgment interest at the highest rates allowed by law; and
- j. Such other relief as to which Plaintiff and the Class Members may be entitled.

Dated this 9th day of April, 2013.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Chris R. Miltenberger', is written over a horizontal line.

Chris R. Miltenberger

The Law Office of Chris R. Miltenberger, PLLC

Texas Bar Number: 14171200

430 N. Carroll, Suite 120

Southlake, Texas 76092

(817) 296-0422

(817) 446-5062 (fax)

chris@crmlawpractice.com

Attorney for Plaintiff

EXHIBIT “A” TO COMPLAINT

Consent to be Party Plaintiff

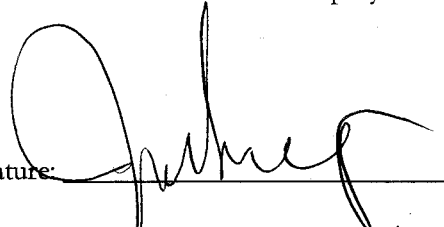
NOTICE OF CONSENT

I, Jasmine Nunez, consent to become a party plaintiff in a lawsuit seeking damages for unpaid wages under the Fair Labor Standards Act from my former employers Saviano's Pizza ("Saviano's") and Saverio Alfieri ("Alfieri") and any other entities or individuals who are determined to be employers under the Fair Labor Standards Act.

Date: _____

4/8/13

Signature: _____



Printed Name: _____

Jasmine Nunez

JS 44 (Rev. 09/11)

CIVIL COVER SHEET

The JS 44 civil coversheet 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

Jasmine Nunez

DEFENDANTS

Saviano's Pizza and Saverio Alfieri

(b) County of Residence of First Listed Plaintiff Tarrant

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Tarrant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(c) Attorneys (Firm Name, Address, and Telephone Number)
The Law Office of Chris R. Miltenberger, PLLC, 430 N Carroll, Suite 120,
Southlake, Texas 76092, 817-296-0422, Chris R. Miltenberger

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)

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 (Excl. 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 - Med. 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 PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. 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 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <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)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <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 <input type="checkbox"/> 210 Land Condemnation <input checked="" 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	CIVIL RIGHTS <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	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <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			

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):

FLSA, 29 U.S.C. §§ 206, 207, and 215(a)(2)

Brief description of cause:

Recovery of minimum wage and overtime for Plaintiff and other similarly situated individuals

VII. 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**VIII. RELATED CASE(S)**

PENDING OR CLOSED:

(See instructions):

JUDGE

DOCKET NUMBER

DATE

04/09/2013

SIGNATURE OF ATTORNEY OF RECORD

s/ Chris R. Miltenberger

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

350.00

APPLYING IFP

JUDGE

MAG. JUDGE