

UNITED STATES DISTRICT COURT  
SOUTHER DISTRICT OF FLORIDA  
FT.LAUDERDALE DIVISION

ED by _____ D.C.
NOV 16 2009
STEVEN M. LARIMORE CLERK U. S. DIST. CT. S. D. of FLA. - MIAMI

CASE NO.: 09-61828

CIV-JORDAN

McALLEY

YADER FLORES, PABLO DIAZ,  
PALMIERI PIERRE-ANDRE, and  
EDGARDO SANCHEZ, on their own  
behelves and others similarly situated,

Plaintiffs,

v.

BEEF EATER STEAK HOUSE, INC.,  
a Florida Profit Corporation

Defendant.

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COMPLAINT

1. Plaintiffs, YADER FLORES, PABLO DIAZ, PALMIERI PIERRE-ANDRE, and EDGARDO SANCHEZ ("Plaintiffs"), were employees of Defendant, BEEF EATER STEAK HOUSE, INC., ("BEEF" or "Defendant"), a Florida Corporation, bring this action for overtime compensation, minimum wages, declaratory relief, and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. § 216(b) (the "FLSA"). Plaintiffs were waiters and performed related activities for Defendant in, among others, Broward County, Florida.

2. Defendant, BEEF, is a Florida corporation that operates and conducts business in, among others, Broward County, Florida, and is therefore, within the jurisdiction of the Court.

3. This action is brought under the FLSA to recover from Defendant overtime compensation, minimum wages, liquidated damages, and reasonable attorneys' fees and costs.

4. This action is intended to include every waiter who worked for Defendant within the last 3 years and who is similarly situated to Plaintiffs.

5. The Court has jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. §1337 and the FLSA and the authority to grant declaratory relief under the FLSA pursuant to 28 U.S.C. § 2201 et seq.

6. At all material times relevant to this action, Defendant was an enterprise covered by the FLSA, and as defined by 29 U.S.C. § 203(r) and 203 (s). Additionally, Plaintiffs and those similarly situated to them were engaged in interstate commerce during their employment with Defendant.

7. At all times relevant to their action, Defendant failed to comply with 29 U.S.C. §§ 201-209, because Plaintiffs, and those similarly situated to them, performed services for Defendant for which no provisions were made by Defendant to properly pay Plaintiffs, and those similarly situated to them, for all hours worked in excess of forty (40) within a work week and to ensure that Plaintiffs were paid at the minimum wage for each hour worked within a work week.

8. Upon information and belief, the records, to the extent any exist, concerning the number of hours worked and amounts paid to Plaintiffs, and those similarly situated to them, are in the possession and custody of Defendant.

**COUNT I - RECOVERY OF OVERTIME COMPENSATION**

9. Plaintiffs reincorporates and readopt all allegation contained within Paragraphs 1-8 above.

10. Plaintiffs are entitled to receive proper payment of time and one-half their regular rate of pay for each hour worked in excess of forty (40) per work week. During their

employment with Defendant, Plaintiffs, and those similarly situated to them, worked overtime hours but were not properly compensated for same.

11. As a result of Defendant's intentional, willful and unlawful acts by refusing to properly pay Plaintiffs, and those similarly situated to them, their regular rate of pay for each hour worked in one or more weeks of employment with Defendant, Plaintiffs, and those similarly situated to them, have suffered damages plus incurring reasonable attorneys' fees and costs.

12. As a result of Defendant's willful violation of the FLSA, Plaintiffs, and those similarly situated to them, are entitled to liquidated damages.

13. Plaintiffs demand a trial by jury.

WHEREFORE, Plaintiffs, and those similarly situated to them, demand judgment against Defendant for payment of the proper regular rate of pay for all hours worked for Defendant for which Defendant did not properly compensate them, liquidated damages, reasonable attorneys' fees and costs incurred in this action, declaratory relief, and any and all further relief that this Court determines to be just and appropriate.

#### **COUNT II - RECOVERY OF MINIMUM WAGES**

14. Plaintiffs reincorporate and readopt all allegations contained within Paragraphs 9-13 above.

15. Plaintiffs were entitled to be paid minimum wage for each hour they worked during their employment with Defendant.

16. Plaintiffs have demanded proper compensation for one or more weeks of work with Defendant, but Defendant has refused and/or failed to compensate them for same. As a result of Defendant's actions in this regard, Plaintiffs have not been paid the

minimum wage for each hour worked during one or more weeks of employment with Defendant.

17. Defendant willfully failed to pay Plaintiffs minimum wage for one or more weeks of work contrary to 29 U.S.C. § 206.

18. As a direct and proximate result of Defendant's deliberate underpayment of wages, Plaintiffs have been damaged in the loss of minimum wages for one or more weeks of work with Defendant.

19. Plaintiffs demand a trial by jury.

WHEREFORE, Plaintiffs demand judgment against Defendant for compensatory damages, an additional and equal amount of liquidated damages, reasonable attorneys' fees and costs incurred in this action, declaratory relief, and any and all further relief that this Court determines to be just and appropriate.

**COUNT III - RECOVERY OF UNPAID WAGES (STATE LAW)**

20. Plaintiffs reincorporate and readopt all allegations contained within Paragraphs 14-19 above.

21. Plaintiffs worked one or more weeks for Defendant and did not receive any compensation, whatsoever. Defendant, therefore, wrongfully deprived Plaintiffs of wages to which they were lawfully entitled.

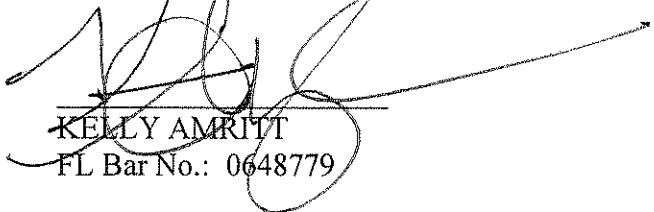
22. Plaintiffs have been damaged as a result of Defendant's failure to pay them the agreed upon wages to which they were entitled.

23. Pursuant to Section 448.08, Florida Statutes, Plaintiffs are entitled to the costs of this action and a reasonable attorneys' fee.

WHEREFORE, Plaintiffs demand judgment against Defendant for the unpaid wages found to be due and owing, prejudgment interest, reasonable attorneys' fees and costs incurred in this action, and any and all further relief this Court deems just and appropriate.

DATED this 30<sup>th</sup> day of October 2009.

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