

UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CARL HANKERSON,

Plaintiff,

Case No.: 15-cv-60785

v.

FORT LAUDERDALE SCRAP INC.,
a Florida corporation, A&B IMPORT
EXPORT, INC., a Florida corporation,
and AMIR SATTAR,
individually,

Defendants.

**PLAINTIFF'S MOTION TO COMPEL INSPECTION OF ELECTRONICALLY
STORED INFORMATION**

COMES NOW, Plaintiff, Carl Hankerson ("Plaintiff"), by and through his undersigned counsel and pursuant to Federal Rules of Civil Procedure and Local Rules of the Southern District of Florida, hereby files his Motion to Compel Inspection of Defendant's Electronically Stored Information and to Overrule Defendant's Objections and in support thereof, states as follows:

BACKGROUND FACTS AND SURROUNDING DISCOVERY

1. On approximately December 1, 2015, the Plaintiff served the Defendant, A&B IMPORT EXPORT, INC., with his Second Request for Production (attached hereto as **Exhibit A**).

2. On December 9, 2015, Defendants' counsel filed a response to Plaintiff's Second Requests for Production in which he requested what appears to be a 10 day extension from the date of his return, January 4, 2016, to respond to any Court filing, including discovery (see Defendant's counsel's Notice of Unavailability attached hereto as **Exhibit B**).

3. Plaintiff did not object to providing a ten (10) day extension.

4. Then, on December 14, 2015, Defendant's counsel filed a response to Plaintiff's Second Requests for Production in which Defendant objects to Plaintiff's requests, but states that the Defendant reserves its right to amend the responses on future conferral between the Defendant's counsel and the Defendant (see Defendant's Notice attached hereto as **Exhibit C**).

5. On January 5th, 6th, and 8th, 2016, Plaintiff's counsel emailed Defendant's counsel to determine whether Defendant was going to provide an amended response to Plaintiff's Second Request for Production and permit inspection of the electronic devices and files. On January 9, 2016, Defendant's counsel responded via email objecting to any discovery inspections (see email correspondence attached hereto as **Exhibit D**).

6. Plaintiff has tried to reach a resolution of this issue to avoid court intervention. Specifically, Plaintiff has explained why he must have an opportunity to inspect the electronic devices, but Defendant still objects to an inspection. Accordingly, the Plaintiff files the instant Motion.

MEMORANDUM OF LAW

A. LEGAL STANDARD

The Federal Rules of Civil Procedure permit “discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense—including the existence, description, nature, custody, condition, and location of any documents or other tangible things and the identify and locations of persons who know of any discoverable matter”—so long as the information sought “appears reasonably calculated to the lead to the discovery of admissible evidence.” Fed. R. Civ. P. 26(b)(1). The burden of showing that requested discovery is not relevant to the litigation falls squarely upon the parties objecting to the discovery. *See Gober v.*

City of Leesburg, 197 F.R.D. 519, 521 (M.D. Fla. Nov. 8, 2000); *Nat. Credit Union Admin. V. First Union Capital Markets Corp.*, 189 F.R.D. 158, 161 (D. Md. 1999).

1. District Court's Discretion

District courts have ample discretion when determining the scope of discovery. *See e.g.*, *Gibson v. Walgreen Co.*, 6:07-cv-1053-Orl-28KRS, 2008 WL 746845 *1 (M.D. Fla. 2008) (citing *Williams v. City of Dothan, Ala.*, 745 F. 2d 1406, 1415 (11th Cir. 1984)). In exercising this discretion, district courts are provided with guidance. For instance, the Court in *Jeld-Wen, Inc. v. Nebula Glasslam Int'l, Inc.*, 248 F.R.D. 632, 639 (S.D. Fla. 2008), stated that “the discovery provisions of the Federal Rules of Civil Procedure allow the parties to develop fully and crystalize concise factual issues for trial. Properly used, they prevent prejudicial surprises and conserve precious judicial energies. The United States Supreme Court has said that they are to be broadly and liberally construed.” *Id.* at 639–40 (citation omitted). The *Jeld-Wen* Court further reasoned that the “purpose of discovery is to allow a broad search for facts, the names of witnesses, or any other matters which may aid a party in the preparation for presentation of his case.” *Id.* (citation omitted).

2. Relevance

The figurative gatekeeper for any discovery request is relevance. In the context of discovery, the relevance requirement is fairly simple to satisfy, especially when compared to the admissibility standard for evidence at trial. *See e.g.*, *Pinilla v. Northwing Accessories Corp.*, 2007 WL 2826608, *4 (S.D. Fla. 2007) (citation omitted); *Dunkin' Donuts, Inc. v. Mary's Donuts, Inc.*, 2001 WL 34079319, *2 (S.D. Fla. 2001) (citing *Cohn v. Taco Bell Corp.*, 147 F.R.D. 154, 156 (N.D. Ill. 1993) (observing that “[t]he Courts have long held that relevant for discovery purposes is much broader than relevance for trial purposes”)). Specifically, discovery

is relevant when it is reasonably calculated to lead to admissible evidence, “although the requested material need not itself be admissible at trial.” *Shearson Lehman Hutton, Inc. v. Lambros*, 135 F.R.D. 195, 198 (M.D. Fla. 1990).

Easily attainable relevancy is a long-standing tradition in federal courts, and district courts have been rightfully reluctant to infringe upon that constant judicial principle. If a party disputes the relevance of a particular discovery request, that party must show that the “requested discovery has no possible bearing on the claims and defenses” in the case. *Buckley Towers Condominium, Inc. v. QBE Ins. Corp.*, 07-22988-CIV, 2008 WL 2645680, *1 (S.D. Fla. June 26, 2008) (citations omitted) (emphasis added). Once a party refuses to disclose the information requested by discovery, that party bears the considerable burden of proving that the information sought has no possible bearing on any claim or defense in the lawsuit.

3. Over breadth

The objecting party has the burden of proving that a discovery request is overly broad. *See Tarmas v. Winter*, 3:07-cv-290-J-32HTS, 2008 WL 4327051, *2 (M.D. Fla. Sept. 18, 2008) (requiring the objecting party to “show specifically how the requested discovery is burdensome, overbroad, or oppressive”) (citation omitted). In order to satisfy this burden, the objecting party must demonstrate that the request requires him to “exercise unnecessary time and effort to ponder, speculate, and decide to what extent it must rummage through documents to distinguish what is and what is not responsive.” *See Union Pacific R. Co. v. Gred’s Foundries, Inc.*, 07-1279-MLB-DWB, 2008 WL 4148591, *2 (D. Kan. Sept. 3, 2008).

A. PLAINTIFF MUST HAVE THE OPPORTUNITY TO INSPECT WHAT IS REQUESTED IN HIS SECOND REQUEST FOR PRODUCTION TO A & B IMPORT EXPORT INC.

Pursuant to Southern District of Florida Local Rule 26.1(h)(2), the Plaintiff states verbatim the Requests for Production at issue, the Defendant's objection and/or response, and the basis for this Motion.

1. Production Request Number 1

Request for Production

Production Request 1 seeks “[t]he computer or other electronic device used to create the paystubs and time records Defendant provided in response to Plaintiff’s First Request for Production, including the computer and all other electronic devices themselves, their hard drives and hardware components. The inspection will necessarily include, but it not limited to, an analysis by a person selected by the Plaintiff or his agents of the computer’s internal clock to determine whether it is accurate or has in anyway been tampered with, as well as an analysis to determine whether the metadata concerning save and creation dates of the electronic files on the computer are being accurately recorded. The inspection will be performed in a manner that will not permanently alter or destroy the computer related items, or computer files.

Defendant’s Response

“Defendant(s) each object to nos. 1-2 above as each production item is; confusing/vague/ambiguous in regard to what in particular is meant by electronic devise or like re; no. 1, and are to be produced and/or by which Defendant(s) post 1st Amended Complaint, inter alia as may be timely amended on future Client/gmo conferrals.”

Support for Motion

Prior to filing this action, the Plaintiff provided his counsel with various paystubs that he had in his possession. For example, Plaintiff provided a paystub dated December 13, 2013, which illustrates that the Plaintiff was paid a salary of \$680.00 for the pay period beginning December 5, 2013 through December 11, 2013¹ (see paystub attached hereto as **Exhibit E**). In response to the Plaintiff's First Request for Production served upon Defendant, A&B Import Export Inc., a paystub was produced illustrating that the Plaintiff received a regular hourly wage of \$8.29 and an overtime wage of \$12.44, during that same period of time (see paystub attached hereto as **Exhibit F**). Further the paystub produced by the Defendant shows the Plaintiff working 68.02 hours which, given the hourly rates of pay set forth on that paystub, equals \$680.00,² the same amount on the paystub produced by the Plaintiff. These two (2) paystubs that represent the same period of time are clearly very different.

Given the inconsistent records, in addition to the Defendants' Affirmative Defense #4 that states the Plaintiff was paid a fixed wage (see attached as **Exhibit G**), the Plaintiff must have an opportunity to inspect the computers or other electronic devices to determine if the records have been altered, and to determine the records' dates of creation. It will also allow the Plaintiff to discover deleted files, back-up files and system history files. Accordingly, the Plaintiff respectfully requests that this Honorable Court compel the Defendant to permit the Plaintiff to inspect what is requested.

¹ The Plaintiff provided the Defendants with all of the paystubs he had in his possession at his deposition.

² This is just one example. All of the paystubs produced by A&B Import Export Inc., from 2012-2014, show the Plaintiff earning a regular hourly rate and an overtime rate.

1. Production Request Number 2

Request for Production

Production Request 2 seeks “[a]ll electronic/digital files relating to the paystubs and time records Defendant provided in response to Plaintiff’s First Request for Production, including but not limited to, any Acrobat Portable Document Format (“PDF”) files, Joint Photographic Experts Group (“JPEG”) files, Tagged Image File Format (“TIFF”) files, 3DMfiles, and any other CAD files and graphic files. The inspection will necessarily include, but it is not limited to, an analysis to determine whether the metadata concerning save and creation dates of the electronic files on the computer or electronic device are being accurately recorded. The inspection will be performed in a manner that will no permanently alter or destroy the computer, related items, or computer files.

Defendant’s Response

“Defendant(s) each object to nos. 1-2 above as each production item is; confusing/vague/ambiguous in regard to what in particular is meant by electronic devise or like re; no. 1, and are to be produced and/or by which Defendant(s) post 1st Amended Complaint, inter alia as may be timely amended on future Client/gmo conferrals.”

Support for Motion

As stated above, there is clearly a difference in the records provided by each party. The Defendant provided records in PDF format and the Plaintiff contends that such records were altered or changed. The Plaintiff further contends that the records the Defendant produced were not kept contemporaneously with the dates the Plaintiff worked. Accordingly, the Plaintiff respectfully requests that this Honorable Court compel the Defendant to permit the Plaintiff to

inspect its electronic and digital files relating to the paystubs and time records it produced in discovery.

CONCLUSION

Based on the aforementioned, good cause exists for this Court to grant the Plaintiff's Motion. Pursuant to Federal Rules of Civil Procedure 37(5)(a), the Plaintiff respectfully requests this Honorable Court enter an Order requiring the Defendant to pay the Plaintiff's attorney's fees in making this Motion.

WHEREFORE, the Plaintiff, CARL HANKERSON, respectfully requests that this Honorable Court grant the relief requested herein, compel the Defendant to permit the Plaintiff to inspect what is requested in his Second Request for Production, and award such further relief that the Court deems appropriate under the circumstances.

CERTIFICATION REQUIRED BY S.D. Fla. L.R. 7.1(a)(3)

Pursuant to Local Rule 7.1(a)(3), the Plaintiff conferred with counsel for Defendant via written correspondence on January 8, 2016 in a good faith effort to resolve, by agreement, the issues raised by this motion. The parties were unable to reach a resolution with respect to the Defendant's responses. The parties have not reached a resolution as to these issues which are presented herein for this Court's consideration.

Dated: January 13, 2016

Respectfully submitted,

/s/ **Jacob K. Auerbach**

Jacob K. Auerbach

FBN: 084003

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that on this 13th day of January 2016, we electronically filed the foregoing with the Clerk of the Court using the CM/ECF. We also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel of parties who are not authorized to receive electronic Notices of Electronic Filing.

ANIDJAR AUERBACH LAW
Jacob Auerbach, Esq.
5521 N. University Drive, Ste 204
Coral Springs, FL 33067
Phone: (954) 906-8228
Jacob@aallawllc.com

By: /s/ Jacob K. Auerbach
Jacob K. Auerbach
FBN: 084003

SERVICE LIST

Gregory Ochalek
90 S.W. 8th Street, Suite 211
Miami, FL 33130
VIA CM/ECF

EXHIBIT A

UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CARL HANKERSON, on his own behalf and
Others similarly situated,

Plaintiff,

Case No. 15-cv-60785

v.

FORT LAUDERDALE SCRAP INC.,
a Florida corporation, A&B IMPORT
EXPORT, INC., a Florida corporation,
and AMIR SATTAR,
individually,

Defendants.

**PLAINTIFF'S SECOND REQUEST FOR PRODUCTION OF DOCUMENTS TO
DEFENDANT, A&B IMPORT EXPORT, INC.**

Plaintiff, CARL HANKERSON ("Plaintiff"), by and through undersigned counsel,
pursuant to Rule 34 of the Federal Rules of Civil Procedure, hereby propounds the attached
Requests for Inspection to be answered within thirty (30) days of service.

DEFINITIONS

- (a) The words "you," "yours" and/or "yourselves" means Defendant, A&B IMPORT EXPORT, INC., and any directors, officers, employees, agents, representatives or other persons acting, or purporting to act, on behalf of A&B IMPORT EXPORT, INC.
- (b) The singular shall include the plural and vice versa; the terms "and" or "or" shall be both conjunctive and disjunctive; and the term "including" means "including without limitation".
- (c) "Date" shall mean the exact date, month and year, if ascertainable or, if not, the best approximation of the date (based upon relationship with other events).
- (d) The word "document" shall mean any writing, recording, electronically stored information or photograph in your actual or constructive possession, custody, care or control, which pertain directly or indirectly, in whole or in part, either to any of the subjects listed below or to any other matter relevant to the issues in this action, or which are themselves listed below as specific documents, including, but not limited to:

correspondence, memoranda, notes, messages, diaries, minutes, books, reports, charts, ledgers, invoices, computer printouts, microfilms, video tapes, or tape recordings.

- (e) “Agent” shall mean: any agent, employee, officer, director, attorney, independent contractor or other person acting at the direction of or on behalf of another.
- (f) “Person” shall mean any individual, corporation, proprietorship, partnership, trust, association or any other entity.
- (g) The words “pertain to” or “pertaining to” mean: relates to, refers to, contains, concerns, describes, embodies, mentions, constitutes, constituting, supports, corroborates, demonstrates, proves, evidences, shows, refutes, disputes, rebuts, controverts or contradicts.
- (h) The term “third party” or “third parties” refers to individuals or entities that are not a party to this action.
- (i) The term “relevant time period” means January 1, 2012, through present day.

REQUEST FOR INSPECTION

1. The computer or other electronic device used to create the paystubs and time records Defendant provided in response to Plaintiff’s First Request for Production, including the computer and all other electronic devices themselves, their hard drives and hardware components. The inspection will necessarily include, but it not limited to, an analysis by a person selected by the Plaintiff or his agents of the computer’s internal clock to determine whether it is accurate or has in anyway been tampered with, as well as an analysis to determine whether the metadata concerning save and creation dates of the electronic files on the computer are being accurately recorded. The inspection will be performed in a manner that will not permanently alter or destroy the computer related items, or computer files.

RESPONSE:

2. All electronic/digital files relating to the paystubs and time records Defendant provided in response to Plaintiff’s First Request for Production, including but not limited to, any Acrobat Portable Document Format (“PDF”) files, Joint Photographic Experts Group (“JPEG”) files, Tagged Image File Format (TIFF”) files, 3DMfiles, and any other CAD files and graphic files. The inspection will necessarily include, but it not limited to, an analysis to determine whether the metadata concerning save and creation dates of the electronic files on the computer or electronic device are being accurately recorded. The inspection will be performed in a manner that will not permanently alter or destroy the computer, related items, or computer files.

Dated: December 1, 2015

ANIDJAR AUERBACH LAW

/s/ *Jacob K. Auerbach*

JACOB K. AUERBACH

Fla. Bar No. 84003

5521 N. University Drive – Suite 204

Coral Springs, FL 33067

T: 954.906.8228

F: 844.270.6948

E: Jacob@aallawllc.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via electronic mail on December 1, 2015, on all counsel of record on the attached service list.

/s/ *Jacob K. Auerbach*

JACOB K. AUERBACH

VIA CM/ECF

Gregory Ochalek, Esq.

EXHIBIT B

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO: 2015-CV-60785-ZLOCH**

CARL HANKERSON, on his own behalf and
others similarly situated,
Plaintiff,
Vs.

FORT LAUDERDALE SCRAP, INC.,
a Florida Corporation **A & B IMPORT EXPORT, INC,**
a Florida Corporation and **AMIR SATTAR,**
Individually.
Defendants.

**JOINT DEFENDANT(S); OCHALEK'S NOTICE OF UNAVAILABILITY
DECEMBER 16th 2015 to January 4th, 2016**

Undersigned Counsel, Gregory M. Ochalek, J.D. will be on prepaid international travel to South America for the above stated period.

WHEREFORE, he requests no hearings, depositions, case activity, meetings, communications, case management, Orders, trials or the like be scheduled or set between the Parties and/or the Court.

**MOTION TO PROTECT/TOLL/ABATE PROCESS DURING UNAVAILABILITY & 10 DAY RESPONSE
EXTENSION**

PER ABOVE, should any hearings, depositions, meetings, case management or the like be scheduled or set between the Parties and/or the Court Ochalek moves for rollover and/or for Protection and hearing on same outside of stated period. Further, should any legal responses/time frames become due during said period it is requested same be given 10 additional days from the date of Ochalek's return.

WHEREFORE, Ochalek requests Protection and a 10 day response extension from date of his return.

By: **S//Gregory M. Ochalek, J.D. FBN 659703**

I HEREBY CERTIFY that on the ___9___ day of December, 2015, I sent a true copy herein via email portal to; Jacob K. Auerbach, Esq. at; Jacob@aallawllc.com
5521 N. University Drive, Suite 204, Coral Springs, FL 33067, T. 954.906.8228, F. 844.270.6948

S/Gregory M. Ochalek, J.D.
FBN 659703
ochaleklaw@gmail.com
90 SW 8th Street, #211
Miami, FL 33130
305.329.4590 F) 305.329.4591

EXHIBIT C

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO: 2015-CV-60785-ZLOCH**

CARL HANKERSON, on his own behalf and
others similarly situated,
Plaintiff,
Vs.

FORT LAUDERDALE SCRAP, INC.,
a Florida Corporation **A & B IMPORT EXPORT, INC,**
a Florida Corporation and **AMIR SATTAR,**
Individually.
Defendants.

**JOINT DEFENDANT(S) RESPONSE/OBJECTIONS TO
HANKERSON'S 2ND REQUEST FOR PRODUCTION OF DOCUMENTS TO
DEFENDANT A & B IMPORT EXPORT, INC. (E/served 12/1/2015)**
DEFENDANT(S) JOINT/SEVERALLY TIMELY RESPOND/OBJECT AS FOLLOWS;

1. GLOBAL OBJECTION(S) to "REQUEST FOR INSPECTION NOS. 1-2;
& to any/all items at issue;
2. RESPONSE; It is Undisputed that Ochalek has a timely record filed notice of unavailability for out of USA travel from DECEMBER 16th 2015 to January 4th, 2016 so that he cannot fully and fairly in legally allowed full time assist 3 Joint Defendant(s) in responding to Mr. Hankerson's captioned Production Demand to Unfairly Prejudice Defense while No prejudice attaches to Plaintiff for by Defense record requested Unavailability responses extensions/tolling/abatement re; same.
3. Discovery is ongoing and said Unavailability Response extensions/tolling/abatements as record requested will not impair the current trial scheduling Order. Defendant(s) will respond timely per all record notices of unavailability and related tolling/extension or like Motions.
4. Finally, Defendant(s) each object to nos. 1 -2 above as each production item is; confusing/vague/ambiguous in regard to what in particular is meant by electronic device or like re; no. 1, and are to be produced...and/or by which Defendant(s) post 1st Amended Complaint, inter alia as may be timely amended on future Client/gmo conferrals

By; **S//Gregory M. Ochalek, J.D. FBN 659703**

I HEREBY CERTIFY that on the ___14___ day of December, 2015, I sent a true copy herein via email portal to; Jacob K. Auerbach, Esq. at; Jacob@aalawllc.com
5521 N. University Drive, Suite 204, Coral Springs, FL 33067, T. 954.906.8228, F. 844.270.6948
S/Gregory M. Ochalek, J.D. FBN 659703 ochaleklaw@gmail.com 90 SW 8th Street, #211
Miami, FL 33130 T) 305.329.4590 F) 305.329.4591

EXHIBIT D

Jacob Auerbach

From: Gregory Ochalek <ochaleklaw@gmail.com>
Sent: Saturday, January 9, 2016 5:06 AM
To: Jacob Auerbach
Cc: Michael Anidjar; Lucia; amir@abiei.com
Subject: RE: NOTICE of E/SERVICE re 15-cv-60785-WJZ Hankerson v. Ftl Scrap/A &B/Sattar re; Defendant(s) Joint Responses Objections to Plaintiff's 2nd Request for Production of Documents to A & B Import Export Inc

Jacob...

1. Defense initial timely objections are served...and will be timely amended per record Notices & related/timely FRCP Record Motions now pending sans Record Court Adjudications. Further, all **Defendant scheduled work hours and worked time hours performed for proper wage pay are ON PAPER RECORDS.. and NOT on any Defendant Electronic/Computer storage apparatus.** SO; Any pay stubs or like issued by the Defendant's Payroll Company are based on Defense PAPER RECORDS as reported Hankerson Worked Hours reflecting required professional tax, FICA and like gross/net withholdings for final proper wage payment to Mr. Hankerson.....and such 2ndary computer Electronic withholding records equipment are not the property of any Defendants.

2. Accordingly, Defense objects to any discovery "inspections" or like of any of its Electronic Data, Computers or like as not relevant, unduly burdensome/disruptive, not calculated to lead to any discoverable evidence, unfairly prejudicial, and confusing and overbroad.

3. Mr. Hankerson..in his fog of self Admitted drug abuse on the joboddly & tardily filed his 1st Amended Complaint...in mid discovery to Total Surprise Defendants to unfairly prejudice Defense AFTER HIS INITIAL COMPLAINT TIMELY VIDEO DEPOSITION Duces Tecum WAS TIMELY TAKEN per the FRCP and Scheduling Orders. **NO DEPOSITION WAS Taken in re the New Defendant/Amended Complaint new allegations to unfairly prejudice Defendants.**

4. Mr. Hankerson ...after so naming New Defendant A&B..... along with stating NEW allegations language in his 1st Amended Complaint...now refuses unlawfully to be fully and fairly video deposed on his 1st Amended Complaint to PROMOTE SETTLEMENT and/or PREJUDICE or DELAY Trial without legal cause.

5. Clearly Defense has meet its discovery burdens to date and will timely amend per above in **objections to any Inspections of Defense Electronic data/devices which have no Hankerson scheduling, wage hour data.**

in conferral, regards greg

On Jan 8, 2016 5:08 PM, "Jacob Auerbach" <jacob@aallawllc.com> wrote:

EXHIBIT E

REGIONS BANK

A & B IMPORT EXPOR
 745 NW 7th AVENUE
 FORT LAUDERDALE, FL 33311

12/13/2013

63-466/631

PAY TO THE
 ORDER OF

CARL SAVALAS HANKERSON

\$ 0.00

NON-NEGOTIABLE

****This is not a check. *****Advice of deposit only****

DOLLARS

CARL SAVALAS HANKERSON

1312 BREBURN RD
 N LAUDERDALE FL 33068

MEMO

 AUTHORIZED SIGNATURE

EMPLOYER

A & B IMPORT EXPORT INC
 745 NW 7 AVE
 FORT LAUDERDALE FL 33311

PAY PERIOD

Period Beginning: 12/05/2013
 Period Ending: 12/11/2013
 Pay Date: 12/13/2013

EMPLOYEE

CARL SAVALAS HANKERSON
 1312 BREBURN RD
 N LAUDERDALE FL 33068

NET PAY:

Acct#....4366: **\$440.91**
\$440.91

MEMO:

<u>PAY</u>	<u>Hours</u>	<u>Rate</u>	<u>Current</u>	<u>YTD</u>
Salary	-	-	680.00	30,429.73

<u>DEDUCTIONS</u>	<u>Current</u>	<u>YTD</u>
Advance Taken	100.00	1,530.00

<u>TAXES</u>	<u>Current</u>	<u>YTD</u>
Federal Income Tax	87.07	3,818.71
Social Security	42.16	1,886.64
Medicare	9.86	441.23

<u>SUMMARY</u>	<u>Current</u>	<u>YTD</u>
Total Pay	\$680.00	\$30,429.73
Taxes	\$139.09	\$6,146.58
Deductions	\$100.00	\$1,530.00

Net Pay \$440.91

EXHIBIT F

A & B IMPORT EXPORT INC
 745 NW 7TH AVENUE
 FORT LAUDERDALE

Paystub Detail

PAY DATE: 12/13/13
 NET PAY \$ 440.91

CARL SAVALAS HANKERSON
 1312 BREBURN RD
 N LAUDERDALE FL 33068

EMPLOYER

A & B IMPORT EXPORT INC
 745 NW 7TH AVENUE
 FORT LAUDERDALE

PAY PERIOD

Period Beginning: 12/05/13
 Period Ending: 12/11/13
 Pay Date: 12/13/13

EMPLOYEE

CARL SAVALAS HANKERSON
 1312 BREBURN RD
 N LAUDERDALE FL 33068

Net Pay \$ 440.91

PAY	Hours	Rate	Current	YTD
Hourly	40.00	8.29	\$ 331.60	\$ 16,580.00
OT	28.02	12.44	\$ 348.40	\$ 13,849.73

DEDUCTIONS	Current	YTD
Advance	100.00	1,530.00

TAXES	Current	YTD
Federal Income Tax	\$ 87.07	\$ 3,818.70
Social Security	\$ 42.16	\$ 1,886.64
Medicare	\$ 9.86	\$ 441.23

SUMMARY	Current	YTD
Total Pay	\$ 680.00	\$ 30,429.73
Taxes	\$ 139.09	\$ 6,146.58
Deductions	\$ 100.00	\$ 1,530.00

EXHIBIT G

appropriate to avoid any/all damages now claimed by Hankerson as the result of his own misconduct or negligence in reporting same per work policy requirements.

3. **Statute of Limitations;** Plaintiff(s) claims are limited to statute of limitations of 2 years, or maximally 3 years, or as otherwise stated by law, and Defendant(s) deny that Plaintiff(s) were not paid minimum wage and/or for any overtime they may have worked during the last 2 or 3 years of their employment.
4. **Fluxuations;** The Defendant(s) paid the Plaintiff(s) a fixed wage as allowed under the FLSA “fluctuating work week” (FWW) methodology so no pay or overtime violations occurred.
5. **Flux;** If and when any Plaintiff(s) hours of work varied it was due to fluxuation of work, employee need or the like.
6. **Mooting;** Defendant(s) reserve the right to “moot” this infirm case by non-prejudicially paying, without any admissions of wrongdoing, liability or like a Court approved settlement payment.
7. **Setoffs;** Plaintiff(s) claims may be setoffs, accord and satisfaction release.