

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF FLORIDA
LEXINGTON DIVISION

JASON W. ABNEY, individually &
on behalf of all similarly situated,

Plaintiff(s),

Case Number _____

v.

R.J. CORMAN RAILROAD GROUP, LLC

Defendant.

_____ /

Complaint

1. The named Plaintiff, Jason W. Abney, individually and on behalf of all similarly situated, sues Defendant, R.J. Corman Railroad Group, LLC, pursuant to 29 U.S.C. § 216(b) for unpaid overtime.

2. Defendant is a domestic limited liability company.

3. Defendant conducts business in, among other states, Kentucky.

4. Named Plaintiff worked for Defendant from August 2015 through March 2017.

5. Named Plaintiff worked for Defendant as an operator and laborer.

6. The Honorable Court has original jurisdiction pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 216(b).

7. Defendant provides railroad construction and maintenance services.

8. Defendant expects that operator and laborers will travel from project locations away from home back to home without compensation.

9. Plaintiff(s) are paid an hourly wage for hours in which they perform manual labor at the site of their assigned projects and travel to their project site.

10. Defendant did not pay Plaintiff(s) for all time spent travelling away from a home site and back.

11. Defendant pays Plaintiff(s) per hour.

12. Defendant's Travel Pay Policy violates 29 U.S.C. § 207(a)(1).

13. Plaintiff(s) regularly work over forty hours a week and receive overtime for some hours of overtime but not all hours of overtime worked.

14. Specifically Plaintiff(s) are not paid all overtime due to Defendant's Travel Pay Policy.

15. For instance during a workweek an operator and/or laborer are required to travel from their home state (e.g. Kentucky) to a different state (e.g. New York). Defendant fails to compensate them for all their compensable travel from the state where they worked back to their home state and vice versa.

16. This complaint covers only travel away from home. It does not encompass any travel time excluded by the Portal-to-Portal Act.

17. An employer must pay an employee overtime pursuant to 29 U.S.C. § 207(a)(1).

18. Defendant did not comply with 29 U.S.C. § 207 as it relates to Plaintiff(s).

19. Defendant has annual gross revenues of over \$500,000.

20. Defendant employs employees that handle goods or materials that have moved in interstate commerce, such as vehicles, cell phones, tools and materials.

21. Defendant is an enterprise as defined by 29 U.S.C. § 203(r).

22. Defendant is an enterprise engaged in commerce as defined by 29 U.S.C. § 203(s)(1)(A).

23. Defendant employed named Plaintiff.

24. Defendant was named Plaintiff's employer as defined by 29 U.S.C. § 203(d).

25. Defendant willfully violated the FLSA.

26. Defendant acted in reckless disregard of the FLSA.

27. Plaintiff(s) are owed overtime for the work they performed for Defendant.

28. Defendant has been the employer of Plaintiff(s) as defined by 29 U.S.C. § 203(d).

29. Defendant did not pay Named Plaintiff for travel that is all in the day's work pursuant to 29 C.F.R. § 785.38.

30. Defendant did not pay Named Plaintiff for travel away from home community pursuant to 29 C.F.R. § 785.39.

31. The Plaintiff(s) had similar job duties.

32. The Plaintiff(s) were paid pursuant to the same pay policy.

33. There are similarly situated employees to named Plaintiff that would like to recover unpaid overtime.

Wherefore, Plaintiff(s) demand pursuant to Section 16(b) of the FLSA facilitation of notice of rights to putative class members, conditional class certification, class certification, unpaid overtime, liquidated damages, judgment, attorneys' fees and costs.

Respectfully submitted this 13th day of June 2017,

/s/ Bernard R. Mazaheri _____

Bernard R. Mazaheri

Morgan & Morgan

333 W Vine St Ste 1200

Lexington, Kentucky 40507

Tel – (859)286-8368

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AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Kentucky

JASON W. ABNEY, individually &)
on behalf of all similarly situated,)

Plaintiff(s)

v.

R.J. CORMAN RAILROAD GROUP, LLC)

Civil Action No. _____

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* R.J. CORMAN RAILROAD GROUP, LLC
c/o Kenneth D. Adams (Registered Agent)
101 R.J. Corman Drive
Nicholasville, KY 40356

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:

Bernard R. Mazaheri
Morgan & Morgan
333 W Vine St Ste 1200
Lexington, KY 40507

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. _____

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:

CIVIL COVER SHEET

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.)

I. (a) PLAINTIFFS

Jason W. Abney, individually & on behalf of all similarly situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

Morgan & Morgan, 333 W Vine St Ste 1200, Lexington, KY 40507; Tel - (859)286-8368

DEFENDANTS

R.J. Corman Railroad Group, LLC

County of Residence of First Listed Defendant Jessamine (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

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, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, etc.

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, 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): 29 U.S.C. Sec. 216(b)

Brief description of cause: Unpaid Overtime

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

06/13/2017

SIGNATURE OF ATTORNEY OF RECORD

/s/ Bernard R. Mazaheri

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: Railroad Company Denies Pay for Travel Time](#)
