

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION**

JOSEPH CERVENY, Individually and on Behalf of All Others Similarly Situated,)	Case No.: 18-cv-870
)	
Plaintiff,)	CLASS ACTION COMPLAINT
)	
v.)	
)	Jury Trial Demanded
HEIN ELECTRIC SUPPLY, CO.,)	
)	
Defendant.)	

INTRODUCTION

1. This class action seeks redress for violations of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (“FLSA”), Wis. Stat. §§ 103.02, 104.09, and 109.03, and Wis. Admin. Code §§ DWD 272.10, 272.11(1), 274.03, and 274.06.

JURISDICTION AND VENUE

2. The court has jurisdiction to grant the relief sought by Plaintiff pursuant to pursuant to 29 U.S.C. § 216(b) and 28 U.S.C. §§ 1331 and 1337.

3. The court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367(a).

4. Venue is proper in this federal judicial district pursuant to 28 U.S.C. § 1391(a) and (c) because a substantial part of the events or omissions giving rise to these claims occurred within this judicial district and the parties reside in this judicial district. Defendant regularly conducts business within this judicial district and thus is subject to personal jurisdiction within this judicial district.

PARTIES

5. Plaintiff Joseph Cervený is an individual who resides in the Eastern District of Wisconsin (Milwaukee County).

6. Plaintiff is an “employee” as defined by 29 U.S.C. § 203(e)(1), in that Defendant permitted him to work for it in a variety of capacities, as well as Wis. Stats. §§ 103.001(5), 104.01(2), and 109.01(1r).

7. As required by 29 U.S.C. § 216(b), Plaintiff has consented in writing to be a party plaintiff in this action and the written consent form is attached hereto as Exhibit A.

8. Defendant Hein Electric Supplies, Inc. (“Hein”) is a domestic corporation with its principal place of business located at 2030 South 116th Street, West Allis, WI 53227.

9. Hein is an “employer” as defined by 29 U.S.C. § 203(d), Wis. Stat. §§ 103.001(6), and 109.01(2) in that Hein permitted Plaintiff to work as a counter salesperson.

FACTS

10. Hein is an independent distributor of electrical supplies, with nine service centers located throughout Southeast Wisconsin.

11. Upon information and belief, Hein employs over one hundred employees. Most of Hein’s employees are employed in the central warehouse, located in West Allis. Hein’s service centers also employ branch managers and counter salespersons, who provide direct service to customers at their assigned locations. Hein also employs a number of administrative employees in its central office.

12. At each of the service centers, the responsibilities of branch managers and counter salespersons are essentially similar.

13. At each of the service centers, the primary responsibilities of branch managers and counter salespersons include: assisting customers; entering customer orders into payment system; pulling customer orders from storage; and managing store inventory.

14. Some service centers are assigned only a single branch manager who is responsible for all sales activity at that location, while other service centers are assigned a branch manager as well as counter salespersons. Under such circumstances the branch manager acts, to a limited extent, as a supervisor over any counter salespersons. Both branch managers and sales persons are primarily supervised by a sales manager.

15. Branch managers and counter salespersons are often transferred between service centers and between the positions of branch manager and counter salesperson.

16. Both branch managers and counter salespersons are required to report to their assigned service centers Monday through Friday during regular business hours.

17. Regular business hours at the central service center in Brookfield are from 6:00 a.m. to 5:00 p.m. Regular business hours at all other service centers are 6:30 a.m. to 4:00 p.m. Hein does not record the actual hours worked by branch managers or counter salespersons.

18. Branch managers and counter salespersons are allowed one half hour lunch break each day. Branch managers who are the only employee at a given service center are allowed to close the store during their half hour lunch breaks. At all other times during the regular business hours of a given a service center, branch managers and counter salespersons are engaged to work.

19. While engaged to work, branch managers and counter sales persons are required to serve customers as needed. When not serving customers directly, branch managers and

customer sales persons are required perform a variety of tasks to ensure that inventory is properly maintained as well as other administrative tasks.

20. Branch managers and counter salespersons are compensated on a salary basis. Upon information and belief, both branch managers and counter salespersons' annual salaries generally range from \$35,000 to \$45,000.

21. Branch managers additionally receive as compensation a commission for sales at their service center. Beyond this commission, neither branch managers nor counter salespersons receive any additional regular compensation.

22. Although they are regularly required to work approximately five hours of overtime each week, branch managers and counter sales persons receive no additional compensation for any hours worked in excess of forty hours per week.

23. Additionally, branch managers and counter salespersons are required to attend regular company meetings after regular business hours for which they receive no additional compensation.

24. Plaintiff has a long history of employment with Hein. Plaintiff was initially hired by Hein sometime in the 1980, but left Hein after a few years to pursue other employment.

25. Plaintiff returned to employment with Hein in 2003, at which point he was assigned to a position as a branch manager at the Menominee Falls sales location

26. In 2010, Plaintiff was transferred to Hein's Brookfield service center where he was assigned to work as a counter salesperson.

27. In 2011, Plaintiff was transferred to Hein's central service center in West Allis, where he was assigned to work in the warehouse. While employed in the warehouse, Plaintiff was compensated on an hourly basis rather than salary, but his gross income while employed in

the warehouse was comparable to his income levels while employed as a branch manager or counter salesperson.

28. In November of 2013, Plaintiff was transferred to Hein's Oak Creek service center where he was assigned to work as a counter salesperson.

29. While employed as a counter salesperson at its Oak Creek service center, Plaintiff salary ultimately reached about \$44,200 per year.

30. On October 2, 2017, Chris Stomming, a sales manager, informed Plaintiff that Hein was terminating his employment. The reason provided to Plaintiff for his termination was the failure of his sales locations to meet projected sales goals. Plaintiff had received no prior notice that his employment with Hein was in jeopardy.

31. 29 U.S.C. § 207(a)(1) provides:

Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

32. 29 U.S.C. §§ 211(c) provides:

Every employer subject to any provision of this chapter or of any order issued under this chapter shall make, keep, and preserve such records of the persons employed by him and of the wages, hours, and other conditions and practices of employment maintained by him, and shall preserve such records for such periods of time, and shall make such reports therefrom to the Administrator as he shall prescribe by regulation or order as necessary or appropriate for the enforcement of the provisions of this chapter or the regulations or orders there-under. The employer of an employee who performs substitute work described in section 207(p)(3) of this title may not be required under this subsection to keep a record of the hours of the substitute work.

33. 29 U.S.C. § 215(a)(5) provides that it shall be unlawful "to violate any of the provisions of section 211(c) of this title."

34. Wis. Stats. § 103.02, in relevant part, provides:

.... The department shall, by rule, classify such periods of time into periods to be paid for at regular rates and periods to be paid for at the rate of at least one and one-half times the regular rates. Such investigations, classifications and orders shall be made as provided in s. 103.005 and the penalties under s. 103.005 (12) shall apply to and be imposed for any violation of ss. 103.01 to 103.03....

35. Wis. Stats. § 104.09 provides:

Each employer shall keep a record of the names and addresses of all student learners and employees, the hours of employment and wages of each, and such other records pertaining to ability as the department requires, except that an employer is not required to keep a record of the hours of employment of an employee who is exempt under rules promulgated by the department from the requirement under s. 103.02 that an employee be paid overtime compensation, as defined in s. 103.025 (1) (c), and who is not compensated on an hourly rate basis.

36. Wis. Stats. § 109.03, in relevant part, provides: “Every employer shall as often as monthly pay to every employee engaged in the employer’s business, except those employees engaged in logging operations and farm labor, all wages earned by the employee to a day not more than 31 days prior to the date of payment.”

37. Wis. Admin. Code § DWD 272.10, in relevant part, provides: “An employer shall state clearly on the employee's paycheck, pay envelope, or paper accompanying the wage payment the number of hours worked, the rate of pay and the amount of and reason for each deduction from the wages due or earned by the employee....”

38. Wis. Admin. Code § DWD 272.11(1) provides: “Every employer shall make and keep for at least 3 years payroll or other records for each of their employees which contain: (d) Time of beginning and ending of work each day. (f) Total number of hours worked per day and per week.”

39. Wis. Admin. Code § DWD 274.03 provides: “Except as provided in s. DWD 274.08, each employer subject to this chapter shall pay to each employee time and one-half the regular rate of pay for all hours worked in excess of 40 hours per week.”

40. Wis. Admin. Code § DWD 274.06 provides:

Except as provided in s. DWD 274.08, each employer shall keep permanent records for at least 3 years, available for inspection and transcription by a duly authorized deputy of the department, showing the name and address of each employee, the hours of employment and wages of each and such other records as the department may require.

COUNT I - FLSA

41. Plaintiff incorporates by reference as if fully set forth herein the allegations contained in the preceding paragraphs of this Complaint.

42. By requiring branch managers and counter salespersons to regularly work 45 hours per week while employing them on a salaried basis with no additional compensation, Hein willfully declined to compensate employees for their hours worked in excess of forty hours in a single work week.

43. Additionally, by regularly requiring branch managers and counter salespersons to attend company meetings after normal work hours, Hein again willfully declined to compensate employees for their hours worked in excess of forty hours in a single work week.

44. Defendant thereby violated 29 U.S.C. § 207(a)(1).

COUNT II - FLSA

45. Plaintiff incorporates by reference as if fully set forth herein the allegations contained in the preceding paragraphs of this Complaint.

46. Hein has systematically and willfully declined to keep any records of the actual hours worked by branch managers and counter salespersons.

47. Defendant thereby violated 29 U.S.C. §§ 211(c) and 215(a)(5).

COUNT III - WISCONSIN WAGE PAYMENT LAWS

48. Plaintiff incorporates by reference as if fully set forth herein the allegations contained in the preceding paragraphs of this Complaint.

49. By requiring branch managers and counter salespersons to regularly work 45 hours per week while employing them on a salaried basis with no additional compensation, Hein willfully declined to compensate employees for their hours worked in excess of forty hours in a single work.

50. Additionally, by regularly requiring branch managers and counter salespersons to attend company meetings after normal work hours, Hein again willfully declined to compensate employees for their hours worked in excess of forty hours in a single work.

51. Defendant thereby violated Wis. Stats. §§ 103.02 and 109.03 as well as Wis. Admin. Code § DWD 274.03.

COUNT IV - WISCONSIN RECORD-KEEPING LAWS

52. Plaintiff incorporates by reference as if fully set forth herein the allegations contained in the preceding paragraphs of this Complaint.

53. Hein has systematically and willfully declined to keep any records of the actual hours worked by branch managers and counter salespersons.

54. Defendant thereby violated Wis. Stats. § 104.09 and Wis. Admin. Code §§ DWD 272.10, 272.11(1), and 274.06.

CLASS ALLEGATIONS

55. Plaintiff brings this action on behalf of a Class, consisting of (a) all natural persons in the State of Wisconsin (b) who were employed by Hein Electric Supply, Inc. as a counter salesperson or branch manager, (c) between June 7, 2015 and June 7, 2018, inclusive.

56. The Class is so numerous that joinder is impracticable. On information and belief, there are more than 50 members of the Class.

57. There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members. The predominant common questions include, but are not limited to: (a) Whether Defendant maintained a common practice of unlawfully failing to pay overtime compensation to Plaintiff and other members of the putative class in violation of and within the meaning of 29 U.S.C. 207(a)(1), Wis. Stat. § 103.02, and Wis. Admin. Code § DWD 274.03; (b) Whether Plaintiff and class members are exempt from overtime compensation under the FLSA or Wisconsin Law; (c) The nature and amount of compensable work performed by Plaintiff and class members; (d) Whether Hein employed Plaintiff and class members within the meaning of the FLSA and Wisconsin law; (e) Whether Hein failed to keep adequate records of the hours worked by Plaintiff and other class members.

58. Plaintiff's claims are typical of the claims of the Class members. All are based on the same factual and legal theories.

59. Plaintiff will fairly and adequately represent the interests of the Class members. Plaintiff has retained counsel experienced in consumer credit and debt collection abuse cases.

60. A class action is superior to other alternative methods of adjudicating this dispute. Individual cases are not economically feasible.

JURY DEMAND

61. Plaintiff hereby demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that the Court enter judgment in favor of Plaintiff and the Class and against Defendant for:

- (a) actual damages;
- (b) statutory damages;
- (c) attorneys' fees, litigation expenses and costs of suit; and
- (d) such other or further relief as the Court deems proper.

Dated: June 7, 2018


ADEMI & O'REILLY, LLP

By: /s/ Ben J. Slatky
Shpetim Ademi (SBN 1026973)
Robert O'Reilly (SBN 1027032)
Ben J. Slatky (SBN 1106892)
3620 East Layton Avenue
Cudahy, WI 53110
Phone No.: 414-482-8000
Fax No.: 414-482-8001
sademi@ademilaw.com
roreilly@ademilaw.com
bslatky@ademilaw.com

EXHIBIT A

PLAINTIFF CONSENT FORM

I hereby consent to make a claim under the Fair Labor Standards Act, 29 USC § 201, et seq., against Hein Electrical Supply Co., for unpaid overtime wages. During the past three years, there were weeks where I worked over 40 hours for Hein Electrical Supply Co. and did not receive overtime pay. I understand that this case may or may not proceed collectively. If this case does not proceed collectively, I consent to pursue my claim individually through this or a subsequent action. I also understand that I may withdraw my consent at any time by notifying the attorneys handling this matter.



Signature and Date

Joseph Cerveny

Print Name

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 THE REVERSE OF THE FORM.)

Place an X in the appropriate Box: Green Bay Division Milwaukee Division

I. (a) PLAINTIFFS
JOSEPH CERVENY

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

(c) Attorney's (Firm Name, Address, and Telephone Number)
 Ademi & O'Reilly, LLP, 3620 E. Layton Ave., Cudahy, WI 53110
 (414) 482-8000-Telephone (414) 482-8001-Facsimile

DEFENDANTS
HEIN ELECTRIC SUPPLY, CO.

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

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

Attorneys (If Known)

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 <i>or</i> 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 <i>and</i> 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	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 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"/> 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"/> 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"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input 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"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	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"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor 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 <input type="checkbox"/> 465 Other Immigration Actions	

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 7 Appeal to District Judge from Magistrate Judgment

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. § 201 et seq

Brief description of cause:
 Violation of Fair Labor Standards Act, etc.

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) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: June 7, 2018 SIGNATURE OF ATTORNEY OF RECORD: /s/ Ben J. Slatky

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT

for the Eastern District of Wisconsin

JOSEPH CERVENY

Plaintiff(s)

v.

HEIN ELECTRIC SUPPLY, CO.

Defendant(s)

Civil Action No. 18-cv-870

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) HEIN ELECTRIC SUPPLY, CO. c/o RONALD KOHLENBERG 2030 S 116TH ST WEST ALLIS , WI 53227-1004

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you receive 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 the plaintiff's attorney, whose name and address are:

Ben J. Slatky ADEMI Y O'REILLY, LLP 3620 E. Layton Ave. Cudahy, WI 53110

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.

STEPHEN C. DRIES, CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4(l))

This summons and the attached complaint for *(name of individual and title, if any)*:

_____ were received by me on *(date)* _____.

I personally served the summons and the attached complaint on the individual at *(place)*:

_____ on *(date)* _____ ; or

I left the summons and the attached complaint 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 and the attached complaint 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.:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Hein Electric Supply Tagged with Wage and Hour Class Action in Wisconsin](#)
