

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

DEWAYNE COLEMAN, on behalf of
himself and others similarly situated,

Plaintiff(s),

v.

**ONSHORE TECHNOLOGY
SERVICES, INC.**,

Defendant.

CASE NO.: 4:17-CV-868

COMPLAINT & DEMAND FOR JURY TRIAL

Plaintiff, DEWAYNE COLEMAN, on behalf of himself and others similarly situated (“Plaintiff”), was an employee of Defendant, ONSHORE TECHNOLOGY SERVICES, INC., a foreign profit corporation (hereinafter “Defendant”), and brings this action for unpaid overtime compensation, liquidated damages, declaratory relief, and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. § 216(b) (the “FLSA”).

NATURE OF THE ACTION

1. This lawsuit seeks to recover overtime compensation and liquidated damages for Plaintiff and similarly situated employees whom have worked under the title “Quality Assurance Technicians” for Defendant.

2. Pursuant to 29 U.S.C. §§ 207 and 216(b), Plaintiff seeks to prosecute this FLSA claim as a collective action on behalf of all persons whom are currently or were formerly employed by Defendant, during material times relevant to this action (2014 through 2017),¹ and within the past three years from the filing of the underlying matter (“the class members”).

3. Plaintiff alleges, on behalf of himself and the class members, that he is entitled to, *inter alia*: (i) unpaid overtime wages for hours worked above forty (40) hours in a work week as required by law; and (ii) liquidated damages pursuant to the FLSA, 29 U.S.C. §§ 201, *et seq.*

PARTIES

4. Plaintiff, on behalf of himself and others similarly situated, was a “Quality Assurance Technician” and performed related activities for Defendant.

¹ All references to material times relevant to this action shall mean to encompass from 2014 through 2017.

5. Defendant, ONSHORE TECHNOLOGY SERVICES, INC., has its headquarters in the City of Macon, County of Macon, Missouri, therefore venue is proper in the Eastern District of Missouri, Northern Division, pursuant to 28 U.S.C. § 1391(b)(1) & (c).

6. Defendant provides technology resources for hundreds of clients, supporting millions of lines of code, manage thousands of applications, and service hundreds of clients from four facilities across Missouri and Georgia.

JURISDICTION

7. This Court has jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. §1337 and the FLSA.

8. The Court has the authority to grant declaratory relief pursuant to the FLSA and the federal Declaratory Judgment Act ("DJA"), 28 U.S.C. §§ 2201-02.

COVERAGE

9. 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).

10. At all material times relevant to this action, Defendant was an employer as defined by 29 U.S.C. § 203(d).

11. At all material times relevant to this action, Defendant's annual gross volume of sales made or business done is not less than Five Hundred Thousand Dollars and no cents (\$500,000).

12. At all material times relevant to this action, Defendant has had two (2) or more employees handling, selling, or otherwise working on goods or materials that have been moved or produced for such commerce (i.e., computers, telephones, faxes, copiers, and other office equipment, supplies, etc.).

13. At all material times relevant to this action, Defendant had two (2) or more employees routinely ordering materials or supplies from out-of-state vendors and sold to out-of-state customers.

14. At all material times relevant to this action, Defendant has been an enterprise involved in interstate commerce by accepting payments from customers based on credit cards issued by out-of-state banks.

15. At all material times relevant to this action, Defendant also used telephones and/or computers to place and receive business calls and information.

16. At all material times relevant to this action, Plaintiff was individually involved in commerce as he transacted with Defendant's customers/vendors who were out of the state of Georgia on a weekly, if not daily basis.

FACTUAL ALLEGATIONS

17. Defendant provides information technology resources tailored-fit to clients' specific needs ranging from information technology, custom application development, application development & integration, data services, software development, business intelligence, rural sourcing, software testing, net, Java, BPO, help desk, consulting, and quality assurance.

18. Defendant purports to contract with individuals to perform quality control inspections, testing of products, including, but not limited to, maintaining quality assurance processes, and recording data of product development for clients during new product or merchandise launch.

19. Defendant purports to call these individuals, "Quality Assurance Technicians," exempt employees, thereby avoiding any obligation to pay overtime.

20. Defendant pays its "Quality Assurance Technicians" (QATs") a salary.

21. Defendant pays its QATs a salary that barely meets the minimum to claim an overtime exemption under the Computer Professional Exemption (\$455 per week). *See* 29 C.F.R. §541.400.

22. QATs do not perform high level computer professional job duties.

23. QATs are not required to have gone through an advanced course of study for computer training.

24. Indeed, Plaintiff only had a high school degree when hired by Defendant.

25. QATs duties do not consist of the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications.

26. QATs duties do not consists of the design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications.

27. QATs duties do not consist of the design, documentation, testing, creation or modification of computer programs related to machine operating systems.

28. Essentially all of the “Quality Assurance Technicians” work well over forty (40) hours per week.

29. Typically, the “Quality Assurance Technicians” works between fifty (50) to sixty (60) hours per week without overtime compensation.

30. Plaintiff worked as a “Quality Assurance Technicians” for Defendant.

31. Plaintiff worked in this capacity from approximately August 2015 through July 2016.

32. Plaintiff was paid a “salary” without additional compensation for overtime hours worked.

33. Plaintiff and others similarly situated routinely worked in excess of forty (40) hours per week as part of their regular job duties.

34. Despite working more than forty (40) hours per week, Defendant failed to pay Plaintiff and others similarly situated overtime compensation at a rate of time and one-half their regular rate of pay for hours worked over forty (40) in a work week.

35. Specifically, Defendant improperly classified Plaintiff and other similarly situated employees as “exempt” from the requirements of the FLSA under the computer professional exemption.

36. Defendant, its officers, and agencies are responsible under federal law, regulations for the establishment and administration of personnel, employment and compensation policies and practices, for applying to Plaintiff, as

well as others similarly situated employees, the provisions of the FLSA and other applicable federal pay and compensation statutes and regulations.

37. Upon information and belief, the records, to the extent that any exist, concerning the number of hours worked and amounts paid to Plaintiff and others similarly situated are in the possession, custody, and control of Defendant.

38. Defendant has employed and is employing other individuals as “Quality Assurance Technicians” whom perform or have performed the same or similar job duties under the same pay provision as Plaintiff and other similarly situated employees.

COLLECTIVE ACTION ALLEGATIONS

39. Plaintiff and the class members performed the same or similar job duties as one another in that they provided and continue to provide quality control inspections, testing of products, maintain quality-assurance processes, and recording data of product development for Defendant’s clients.

40. All of Defendant’s “Quality Assurance Technicians” are paid a salary.

41. Further, Plaintiff and the class members were subjected to the same pay provisions in that they were paid by the hour and not compensated at the rate of time and one-half for all hours worked in excess of forty (40) hours in a work

week during the time period when they were misclassified as “exempt employees.” Therefore, the class members are owed overtime wages for the same reasons as Plaintiff.

42. Defendant’s failure to compensate employees for hours worked in excess of forty (40) hours in a work week as required by the FLSA results from a policy or practice of failure to assure that technicians are not paid for overtime hours worked.

43. This policy or practice was applicable to Plaintiff and the class members. Application of this policy or practice does not depend on the personal circumstances of Plaintiff or those joining this lawsuit. Rather, the same policy or practice which resulted in the non-payment of overtime to Plaintiff applies to all class members. Accordingly, the class members are properly defined as:

All “quality assurance technicians” whom worked at any of Defendant’s locations nationwide within the last three (3) years whom were not compensated at the rate of time and one-half their regular rate for all hours worked in excess of forty (40) hours in a work week.

44. Defendant knowingly, willfully, or with reckless disregard carried out its illegal pattern or practice of failing to pay overtime compensation with regard to Plaintiff and the class members.

45. Defendant 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.

46. During the material relevant times to this action, Defendant violated § 7(a)(1) and § 15(a)(2), by employing individuals in an enterprise engaged in commerce or in the production of goods for commerce within the meaning of the FLSA as aforesaid, for one or more work weeks without compensating such employees for their work at a rate of time and one-half their regular rate for all hours worked in excess of forty (40) hours in a work week.

47. Defendant has acted willfully in failing to pay Plaintiff and the class members in accordance with the law.

COUNT I
RECOVERY OF OVERTIME COMPENSATION

48. Plaintiff, on behalf of himself and others similarly situated, reincorporates and readopts all allegations contained in paragraphs 1 through 47 above as though fully stated herein.

49. Plaintiff and others similarly situated are/were entitled to be paid time and one-half their regular rate of pay for each hour worked in excess of forty (40) hours per work week.

50. During their employment with Defendant, Plaintiff and others similarly situated regularly worked overtime hours but were not paid time and one-half compensation for same.

51. Plaintiff and others similarly situated, were paid a salary without any additional premium payment of time or one-half their regular rate of pay for hours worked in excess of forty (40) within a work week.

52. In addition, Defendant did not maintain or keep accurate time records as required by the FLSA for Plaintiff and other similarly situated employees.

53. Also, Defendant failed to post required FLSA informational listings as required by the FLSA for Plaintiff and other similarly situated employees.

54. As a result of Defendant's willful violation of the FLSA, Plaintiff and others similarly situated are entitled to liquidated damages.

55. As a result of Defendant's intentional, willful, and unlawful acts in refusing to pay Plaintiff and others similarly situated time and one-half their regular rate of pay for each hour worked in excess of forty (40) hours per work week in one or more work weeks, Plaintiff and others similarly situated have suffered damages plus incurring reasonable attorneys' fees and costs.

COUNT II
DECLARATORY RELIEF

56. Plaintiff, on behalf of himself and others similarly situated, reincorporates and readopts all allegations contained in paragraphs 1 through 47 above as though fully stated herein.

57. Plaintiff and Defendant have a Fair Labor Standards Act dispute pending, which the Court has jurisdiction to hear pursuant to 28 U.S.C. § 1331, as a federal question exists.

58. The Court, also has jurisdiction to hear Plaintiff's request for declaratory relief pursuant to the Declaratory Judgment Act ("DJA"), 28 U.S.C. §§ 2201-2202.

59. Plaintiff may obtain declaratory relief.
60. Defendant employed Plaintiff.
61. Defendant is an enterprise.
62. Plaintiff was individually covered by the FLSA.
63. All QATs are individually covered under the FLSA.
64. Plaintiff was an employee and not “exempt.”
65. Defendant’s “Quality Assurance Technicians” are/were non-exempt employees.
66. Defendant’s “Quality Assurance Technicians” are eligible for overtime compensation.
67. Defendant’s “Quality Assurance Technicians” are/were misclassified as exempt employees.
68. Having been advised of the misclassification, Defendant did nothing to change the “Quality Assurance Technicians” classification as exempt employees.
69. Defendant did not rely upon a good faith defense in classifying “Quality Assurance Technicians” as exempt employees.
70. Plaintiff is entitled to an equal amount of liquidated damages.

71. It is in the public interest to have these declarations of rights recorded.

72. Plaintiff's declaratory judgment action serves the useful purpose of clarifying and settling the legal relations in issue.

73. The declaratory judgment action terminates and affords relief from uncertainty, insecurity, and controversy giving rise to the proceeding.

WHEREFORE, Plaintiff, DEWAYNE COLEMAN, on behalf of himself and others similarly situated, demands judgment against ONSHORE TECHNOLOGY SERVICES, INC., individually, for the payment of all overtime hours at one and one-half the regular rate of pay for the hours worked by Plaintiff, and other similarly situated employees, for which Defendant did not properly compensate Plaintiff and the class members, liquidated damages, declaratory relief, reasonable attorneys' fees and costs incurred in this action, pre-and post-judgment interest as provided by law, and any and all further relief this Court determines to be just and appropriate.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff hereby demands a trial by jury of all issues so triable.

Respectfully submitted,

/s/ Phillip M. Murphy, II

Phillip M. Murphy II

MO Bar No.: 61467

Law Office of Phillip M. Murphy II

4717 Grand Avenue, Suite 250

Kansas City, Missouri 64112

Telephone: (913) 661-2900

Facsimile: (913) 312-5841

phillip@phillipmurphylaw.com

Carlos V. Leach, Esq.*

GA Bar No.: 488443

Pro Hav Vice Forthcoming

MORGAN & MORGAN, P.A.

191 Peachtree Street, N.E., Suite 4200

Post Office Box 57007

Atlanta, Georgia 30343-1007

Main: (404) 965-8811

Facsimile: (404) 496-7405

Email: CLEach@forthepeople.com

Attorneys for Plaintiff

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

DEWAYNE COLEMAN, on behalf of himself and others similarly situated

(b) County of Residence of First Listed Plaintiff _____

(EXCEPT IN U.S. PLAINTIFF CASES)

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

Phillip M. Murphy II, Law Office of Phillip M. Murphy II, 4717 Grand Avenue, Suite 250, Kansas City, Missouri 64112, Tel: (913) 661-2900 / Fax: (913) 312-5841

DEFENDANTS

ONSHORE TECHNOLOGY SERVICES, INC.

County of Residence of First Listed Defendant **Macon County**

(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
- ☒ 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 (Excludes 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 - Medical 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 checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management 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 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <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"/> 376 Qui Tam (31 USC 3729(a)) <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 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 Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <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 - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
29 U.S.C. § 216(b)Brief description of cause:
Unpaid overtime compensation**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** 75,000.00 CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

03/09/2017

SIGNATURE OF ATTORNEY OF RECORD

/s/ Phillip M. Murphy II

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

Print

Save As...

Reset

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.Cv.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; **NOTE: 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 clerk(s) 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 – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- 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 actual dollar amount 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.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Missouri

DEWAYNE COLEMAN, on behalf of himself and
others similarly situated*Plaintiff*

v.

ONSHORE TECHNOLOGY
SERVICES, INC.*Defendant*)
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)
)
)
)

Civil Action No. 4:17-cv-00868

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Defendant, Onshore Technology Services, Inc.
 c/o PARACORP INCORPORATED, as Registered Agent
 222 E. Dunklin, Suite 102
 Jefferson City, MO 65101

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:

Phillip M. Murphy II
 Law Office of Phillip M. MurphyII
 4717 Grand Avenue, Suite 250
 Kansas City, Missouri 64112
 Tel: 913-661-2900

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. 4:17-cv-00868

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:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Unpaid Overtime Lawsuit Filed Against Onshore Technology Services](#)
