

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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ELSIE DAVID,

CIVIL ACTION NO.

Plaintiff,

on behalf of herself and all others similarly situated,

**COLLECTIVE ACTION
COMPLAINT**

-against-

SCO FAMILY OF SERVICES, INC.,

Defendant.

-----X

PLEASE TAKE NOTICE that Plaintiff, on behalf of herself and all others similarly situated, as and for a collective action complaint against Defendant, alleges as follows:

NATURE OF THE ACTION

1. Plaintiff brings this collective action on behalf of similarly situated hourly employees (the "Collective"), to seek redress for underpayment of overtime wages against Defendant, who is a provider of human and social services for the elderly and infirm in and around the City of New York and its metropolitan area.
2. Defendant, by failing to pay Plaintiff and the Collective the federal and state mandated overtime wage, violated the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 201 *et seq* and the New York Labor Law ("NYLL") §§ 650 *et seq*.
3. Plaintiff brings this action on behalf of herself and all similarly situated current and former hourly employees of Defendant since November 2015 who elect to opt into this action pursuant to the FLSA, 29 U.S.C. § 216(b), to remedy Defendant's violations of the wage and hour provisions of the FLSA which deprived Plaintiff and others similarly situated of their lawful overtime wages.

4. Plaintiff also brings this action on behalf of herself only for unpaid overtime wages pursuant to NYLL §§ 650 *et seq* and implementing regulations.

5. Plaintiff hereby seeks legal and declaratory relief against Defendant pursuant to federal and New York statutes.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1337 and supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367. In addition, the Court has jurisdiction pursuant to 29 U.S.C. § 216(b).

7. Venue is proper in the Eastern District of New York pursuant to 28 U.S.C. § 1391(a) as Defendant resides, conducts business and employed Plaintiff in this judicial district.

8. This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202.

PARTIES

9. Plaintiff is an adult individual who, at all times relevant to this Complaint, has been a resident citizen of the state of New York, County of Nassau.

10. At all times relevant to this Complaint, Plaintiff was an employee of Defendant within the meaning of the FLSA, 29 USC § 203(e) and NYLL § 651.

11. At all relevant times, Defendant employed Plaintiff within the meaning of the FLSA and NYLL.

12. Defendant SCO Family of Services, Inc. ("SCO") is a domestic not for profit corporation doing business within the state of New York that maintains its principal place of business at 1 Alexander Place, Glen Cove, NY 11542. SCO provides human and social services to elderly, ill and/or frail individuals throughout the state of New York.

13. Defendant was at all times herein relevant an enterprise engaged in and/or affecting interstate commerce with annual revenues in excess of \$500,000.00 and Plaintiff and others worked for Defendant in interstate commerce using the mails and wires and handling items which moved in interstate commerce, including but not limited to pens, papers, medical instruments, computers, office furniture, office equipment, telephones, *inter alia*.

14. At all times herein relevant, Defendant operated several elementary and secondary schools, early childhood learning centers and residential in-patient treatment centers for persons with and without developmental and/or mental disabilities throughout NYS, including but not limited to *Morningside I and II, Taft Academy, Early Head Start, Madonna Residential School* and *Close to Home*.

STATEMENT OF FACTS

15. Defendant at all relevant times herein employed Plaintiff as a nurse to work in the health care industry and provide assistance to Defendant's disabled, ill and elderly clients.

16. Plaintiff worked for Defendant full-time as a nurse from 1996 through February 2018 at Defendant's Long Island New York facility.

17. The job duties of Plaintiff and the Collective included, but were not limited to the following: providing health care services, personal care services, assistance with activities of daily living like walking, bathing, dressing, personal grooming, meal preparation, feeding and toileting; heavy and light cleaning, such as vacuuming, mopping, dusting, cleaning windows, cleaning bathrooms, doing laundry and taking out garbage; escorting clients.

18. Defendant had the right to control, and in fact did control, the hours, hourly pay, assignments, and schedule of Plaintiff and the Collective. Plaintiff and the Collective were paid on a W-2 basis and evaluated by Defendant.

19. At all relevant times, Defendant failed to post and/or keep posted a notice explaining employees' rights under the FLSA, in violation of 29 C.F.R. § 516.4.

20. Plaintiff and the Collective worked eight (8) or twelve (12) hour shifts for Defendant and at all times herein relevant Defendant required Plaintiff and the Collective to attend to and monitor their assigned clients throughout the duration of their respective work shifts; and controlled the manner in which Plaintiff did so in terms of frequency, priority and documentation, *inter alia*.

21. Defendant at all times monitored Plaintiff's and the Collective's compliance with Defendant's guidelines, procedures and policies to ensure compliance therewith in the discharge of Plaintiff's job duties.

22. Throughout the duration of Plaintiff's tenure, Defendant required her to punch in and out every day in order to track hours worked.

23. Defendant paid Plaintiff and the Collective on an hourly basis with overtime payments after forty (40) hours per week. (Attached as Exhibit 1).

24. In or about May 2016, Defendant paid Plaintiff and the Collective retroactive lump sum pay pursuant to contractual arrangement.

25. For example, during the weeks of 4/24/16-4/30/16 and 5/1/16-5/7/16, Plaintiff worked Monday through Friday 8:00 am to 6:00 pm and Saturday 1:00 am to 5:00 pm, for approximately 49 hours each of those weeks. Defendant paid Plaintiff and the Collective overtime wages for each of those weeks, but failed to include in its overtime calculation the lump sum retroactive pay that Plaintiff and the others received.

26. At all relevant times, Defendant failed to pay Plaintiff overtime wages based on the correct regular rate for hours worked in excess of forty (40) per week, in violation of the overtime provisions of the FLSA and NYLL. (Attached as Exhibit 2).

27. As part of its regular business practice, Defendant intentionally, willfully and repeatedly engaged in a pattern, practice and/or policy of violating the FLSA and NYLL including but not limited to failing to pay Plaintiff and the Collective one and one half times their regular rates of pay for all hours worked in excess of forty (40) per week.

28. Upon information and belief, Defendant's unlawful conduct as described herein was pursuant to a policy or practice of attempting to minimize labor costs by violating the FLSA and NYLL.

29. Defendant's unlawful conduct has been widespread, repeated and consistent; and was not undertaken based on advice of counsel nor guidance from a competent court or governmental agency.

30. Throughout Plaintiff's tenure, Defendant provided Plaintiff with pay statements with each payment of wages that did not include the actual hourly and overtime pay rates, *inter alia*.

COLLECTIVE ALLEGATIONS

31. Plaintiff brings the FLSA claims on behalf of herself and all similarly situated persons who worked for Defendant as hourly non-exempt employees since November 2015, who worked more than forty (40) hours in any week and received retroactive pay from Defendant during that time period ("FLSA Collective").

32. Defendant is liable under the FLSA for failing to properly pay the overtime wages for all hours worked greater than forty (40) per week. As such, notice should be sent to the FLSA Collective.

33. There are numerous similarly situated current and former employees of Defendant who have been similarly underpaid in violation of the FLSA and who would benefit from the issuance of a Court-supervised notice of the present lawsuit and the opportunity to join.

**FIRST CAUSE OF ACTION: FLSA OVERTIME (29 U.S.C. §§ 206, 216)
(On Behalf of Plaintiff and Collective Members)**

34. Plaintiffs allege and incorporate by reference the allegations contained in all preceding paragraphs.

35. Defendant has engaged in a widespread pattern and practice of violating the FLSA, as detailed in this Complaint.

36. Plaintiff consents to be a party to this action, pursuant to 29 U.S.C. § 216(b).

37. At all times relevant to this action, Plaintiff and the Collective were employed by Defendant within the meaning of the FLSA, 29 U.S.C. § 203(e).

38. At all times relevant to this action, Plaintiff and the Collective were engaged in commerce and Defendant was an enterprise engaged in commerce within the meaning of 29 U.S.C. §§ 206(a) and 207(a).

39. Defendant violated the rights of Plaintiff and the Collective by failing to pay overtime compensation at a rate not less than one and one-half times the regular rates of pay for each hour worked in excess of forty (40) per week, in violation of the FLSA, 29 U.S.C. § 207(a)(1).

40. Defendant's failure to pay Plaintiff and the Collective overtime compensation was willful within the meaning of the FLSA, 29 U.S.C. § 255.

41. Defendant is liable to Plaintiff and the Collective who opt in to this action for their unpaid overtime compensation, plus an additional equal amount as liquidated damages, reasonable attorney's fees and costs, and any other appropriate relief pursuant to 29 U.S.C. § 216(b).

SECOND CAUSE OF ACTION: NY OVERTIME WAGES (Labor Law §§ 652, 663)
(On Behalf of Plaintiff Only)

42. Plaintiff alleges and incorporates by reference the allegations contained in all preceding paragraphs.

43. At all times relevant to this action, Plaintiff was Defendant's employee within the meaning of NYLL § 651(5).

44. At all times relevant to this action, Defendant was the employer of Plaintiff within the meaning of NYLL § 651(6).

45. At all times relevant to this action, Defendant failed to pay Plaintiff overtime wages for all hours worked greater than forty (40) per week in violation of NYLL § 652 and 12 N.Y.C.R.R. §§ 142-3.2.

46. Defendant willfully violated the rights of Plaintiff by failing to pay overtime wages due and owing for work performed in violation of NYLL.

47. Due to Defendant's NYLL violations, Plaintiff is entitled to recover from Defendant her unpaid overtime wages, reasonable attorneys' fees and costs of the action, pre-judgment and post-judgment interest, liquidated damages, and other compensatory and equitable relief pursuant to NYLL § 663.

THIRD CAUSE OF ACTION: NY WAGE THEFT (Labor Law §§ 195, 198)
(On Behalf of Plaintiff Only)

48. Plaintiff repeats the foregoing paragraphs in their entirety.

49. Defendant failed to provide Plaintiff with wage statements with each wage payment that contained all required information, such as hourly and overtime pay rates, hours worked, overtime hours worked, etc.

50. As a result of the foregoing, Defendant violated NYLL §§ 195(3) and Plaintiff is entitled to recover civil penalties and record-keeping violation liability from Defendant for the duration of said violations.

51. By reason of the aforesaid statutory violation, Defendant is liable to Plaintiff.

52. Defendant willfully violated the rights of Plaintiff by the aforementioned course of action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, prays for the following relief:

A. That, at the earliest possible time, Plaintiff be permitted to give notice of this collective action, or that the Court issue such notice to all persons who are presently, or have at any time during the three years immediately preceding the filing of this suit, up through and including the date of this Court's issuance of court-supervised notice, been employed by Defendant as an hourly employee and received lump sum retroactive pay. Such notice shall inform them that this civil action has been filed, of the nature of the action, and of their right to join this lawsuit if they believe they were denied proper hourly compensation and/or overtime wages;

B. An award of unpaid overtime, attorneys' fees, costs, and interest pursuant to 29 U.S.C. § 216 and New York Labor Law § 663;

C. An award of liquidated damages pursuant to 29 U.S.C. § 216 and NYLL § 663;

D. Certification of this case as a collective action pursuant to 29 U.S.C. § 216;

E. Designation of Plaintiff as representative of the Collective, and counsel of record as Collective Counsel; and

F. Issuance of a declaratory judgment that the practices complained of herein are unlawful under the FLSA and the NYLL.

DEMAND FOR TRIAL BY JURY

Pursuant to FRCP 38(b), Plaintiff demands a trial by jury on all questions of fact.

Dated: Brooklyn, New York

October 17, 2018

_____/s/_____
LAW OFFICE OF DAVID WIMS
BY: David C. Wims, Esq. (DW-6964)
Attorneys for Plaintiff
1430 Pitkin Ave., 2nd Fl.
Brooklyn, NY 11233
(646) 393-9550

EXHIBIT 1

EXHIBIT 1

82032B

SCO Family of Services
 1 Alexander Pl. Glen Cove, NY
 516-671-1253

Voucher No: 910637
 Check Date: 04/29/16
 Pay Period: 04/10/16..04/23/16

00248655 ELSIE DAVID

~~XXXXXXXXXX~~
 WESTBURY, NY 11590-0000

Net Pay 2,534.13
 Net Pay YTD 19,760.22 Earnings YTD 30,541.63

	Withholding Status	Exemptions	Additional Withholding	Retirement Number	Sick Balance	Personal Balance	Vacation Balance
FEDERAL	MARRIED	1			631.72	0	157.42
NYSTATETAX	MARRIED	1					

Earnings Description	Hrs/Days	Rate	Earnings	Deduction / Benefit	Current	Y-T-D
Regular Hourly Pay	80	37.4954	2,999.63	403B Mass Mutual Before	150.00	1,350.00
Overtime Hourly Pay	16	56.24	899.84	Dental Before Tax	6.67	60.03
				Aetna Before Tax	79.61	716.49
				Federal Income Tax	471.49	3,316.45
				New York State Tax	202.29	1,518.34
				New York Disability	1.20	10.80
				Medicare	55.41	431.60
				Social Security	236.95	1,845.45
				Excess Group Term Life	8.53	76.77
				UNUM LTD	138.28	1,244.52
				UNUM STD	23.44	210.96
Total Earnings			3,899.47	Total Deductions	1,373.87	10,781.41
Excess Group Term Life			8.53			
Total Fringe Earnings			8.53			

157.42
 7.38

 164.80

YOUR NET PAY HAS BEEN ELECTRONICALLY DEPOSITED AS FOLLOWS:

Pay Distribution	Amount
Savings: *****	100.00
Checking: *****	2,434.13
Total Net Pay	2,534.13

164.80 / 18
 048
 0



EXHIBIT 2

EXHIBIT 2

520328

SCO Family of Services

1 Alexander Pl. Glen Cove, NY
516-671-1253

Voucher No: 913938

Check Date: 05/13/16

Pay Period: 04/24/16..05/07/16

00248655 ELSIE DAVID

██████████ STREET
WESTBURY, NY 11590-0000

Net Pay 3,898.94
Net Pay YTD 23,659.16 Earnings YTD 36,730.23

Withholding Status	Exemptions	Additional Withholding	Retirement Number	Sick Balance	Personal Balance	Vacation Balance
FEDERAL MARRIED	1			635.41	0	164.8
NYSTATETAX MARRIED	1					

Earnings Description	Hrs/Days	Rate	Earnings	Deduction / Benefit	Current	Y-T-D
Retro Pay			2,140.00	403B Mass Mutual Before	150.00	1,500.00
Regular Hourly Pay	80	37.4954	2,999.63	Dental Before Tax	6.67	66.70
Overtime Hourly Pay	18.5	56.24	1,040.44	Aetna Before Tax	79.61	796.10
				Federal Income Tax	1,041.64	4,358.09
				New York State Tax	373.47	1,891.81
				New York Disability	1.20	12.00
				Medicare	88.48	520.08
				Social Security	378.34	2,223.79
				Excess Group Term Life	8.53	85.30
				UNUM LTD	138.28	1,382.80
				UNUM STD	23.44	234.40
Total Earnings			6,180.07	Total Deductions	2,289.66	13,071.07
Excess Group Term Life			8.53			
Total Fringe Earnings			8.53			

1641.8
7.35
1721.3

N14EZ

1641.8
8.53
1650.3

1641.8
8.53
1650.3

Date of check
5/13/16

1641.8
7.35
1723.3
2.3
1725.6

YOUR NET PAY HAS BEEN ELECTRONICALLY DEPOSITED AS FOLLOWS:

Pay Distribution	Amount
Savings: *****	100.00
Checking: *****	3,798.94
Total Net Pay	3,898.94

1641.8
7.35
1723.3

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

Elsie David

Plaintiff(s)

v.

SCO Family of Services, Inc.

Defendant(s)

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)
)
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)
)
)

Civil Action No. 18 CV 5803

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) SCO Family of Services, Inc., One Alexander Place, Glen Cove, NY 11542

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:

Law Office of David Wims, 1430 Pitkin Avenue, 2nd Floor, Brooklyn, NY 11233, 646-393-9550; dwims@wimslaw.com

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.

DOUGLAS C. PALMER
CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

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

Elsie David

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

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

Law Office of David Wims, 1430 Pitkin Avenue, 2nd Floor, Brooklyn, NY 11233, 646-393-9550; dwims@wimslaw.com

DEFENDANTS

SCO Family of Services, Inc. 18CV5803

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

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

Attorneys (If Known)

Jackson Lewis, PC, 58 South Service Road, Melville, NY 11747

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	<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	<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))	<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	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS		
<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	<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	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	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
29 USC 201 et seq

Brief description of cause:
Unpaid overtime wages

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 10/17/2018
SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration

I, David C. Wims, counsel for Plaintiff, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)


- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? Yes No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? Yes No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes No
 - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? Yes No
(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.
 Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?
 Yes (If yes, please explain) No

I certify the accuracy of all information provided above.
Signature: 

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [SCO Family of Services Underpaid Nurse for Overtime Work, Lawsuit Alleges](#)
