

FOS paid these workers a daily rate with no overtime pay.

5. FOS classified these workers as independent contractors.

6. FOS did not pay these workers a guaranteed salary.

7. Hampton worked with numerous individuals who were subjected to the same illegal compensation practices which denied him overtime as required by the FLSA, Ohio Wage Acts, and PMWA.

8. This class and collective action seeks to recover the unpaid overtime wages and other damages owed to these FOS workers.

II. JURISDICTION AND VENUE

9. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because this action involves a federal question under the FLSA. 29 U.S.C. § 216(b). The Court also has federal jurisdiction over this action pursuant to the jurisdictional provisions of the Class Action Fairness Act, 28 U.S.C. § 1332(d). The Court also has supplemental jurisdiction over any state law sub-class pursuant to 28 U.S.C. § 1367.

10. Venue is proper under 28 U.S.C. §§ 1391 (b) and (c) because FOS operates in this District and Division and because a substantial part of the events giving rise to this claim occurred in this District and Division.

III. THE PARTIES

11. Hampton worked exclusively for FOS as a Field Services Coordinator during the relevant statutory time period.

12. Throughout his employment with FOS, Hampton was paid a day rate.

13. FOS did not pay Hampton overtime pay when he worked over 40 hours a week.

14. FOS did not pay Hampton a salary of at least \$455.00 a week.

15. For example, Hampton worked for FOS from March 16, 2015 to March 24, 2015.

During that time period, he worked at least 12 hours days. And as a result worked overtime. He FOS, through its subsidiary Performance Fluid Management, only paid Hampton a day rate. It never paid Hampton overtime for the time worked nor a salary.

16. Hampton's written consent is attached as Exhibit A.

17. Hampton worked for FOS in this district and division.

18. Hampton brings this action on behalf of himself and all other similarly situated oilfield workers who worked for or on behalf of FOS, who were classified as independent contractors without receiving overtime for hours worked in excess of forty (40) in a workweek, and did not receive a guaranteed salary of at least \$455.00 a week. The class of similarly situated employees or putative class members sought to be certified is defined as follows:

All current and former oilfield worker who worked for or on behalf of Focus Optimization Solutions, Inc. and its subsidiary Performance Fluids Management who were classified as independent contractors and paid a day-rate during the last three (3) years. ("Putative Class Members")

19. Hampton also seeks class certification of this class under Fed. R. Civ. P. 23 under the PMWA ("PMWA Class") and the Ohio Wage Acts "Ohio Class."

20. The Putative Class Members are easily ascertainable from FOS's business records, particularly personnel records.

21. Focus Optimization Solutions, Inc. may be served through its registered agent: **Mary Frances Vonberg at 333 N. Sam Houston Parkway, Suite 300, Houston, Texas 77060.**

22. FOS purchased Performance Fluid Management, the company for which Hampton worked for part of the 3 year look back period.

23. On information and belief, FOS owns all liabilities of Performance Fluid Management.

IV. COVERAGE UNDER THE FLSA

24. At all times hereinafter mentioned, FOS has been an employer within the meaning of

the Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

25. At all times hereinafter mentioned, FOS has been part of an enterprise within the meaning of Section 3(r) of the FLSA, 29 U.S.C. § 203(r).

26. At all times hereinafter mentioned, FOS has been part of an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Section 3(s)(1) of the FLSA, 29 U.S.C. § 203(s)(1), in that said enterprise has and has had employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person and in that said enterprise has had and has an annual gross volume of sales made or business done of not less than \$500,000 (exclusive of excise taxes at the retail level which are separately stated).

27. At all times hereinafter mentioned, Hampton and the Putative Class Members were engaged in commerce or in the production of goods for commerce.

28. FOS treated Hampton and the Putative Class Members as employees and uniformly dictated the pay practices to which Hampton and its other employees (including its so-called “independent contractors”) were subjected.

29. FOS misclassification of Hampton and the Putative Class Members as independent contractors does not alter their status as employees for purposes of the FLSA, Ohio Wage Acts, or the PMWA.

V. FACTS

30. FOS describes itself as “speciali[z]ing in the independent management of the entire drilling fluids package – muds, solids control and environmental waste management and containment.” See <http://www.focus-oandg.com/services> (last visited April 13, 2018).

31. To perform the services FOS markets on its website, FOS employs independent contractors, like Hampton.

32. FOS pays its contractors a daily rate.
33. FOS does not pay its day rate contractors overtime.
34. FOS does not pay its day rate contractors a salary.
35. FOS applies this pay practice to its operations nationwide.
36. FOS operates throughout the United States, including Pennsylvania and Ohio.
37. Hampton worked alongside other day rate contractors of FOS.
38. Based on his experiences at FOS, Hampton knows that FOS paid other workers a day rate as independent contractors without overtime or a salary.
39. The nature of Hampton's relationship with FOS is that of an employee/employer relationship.
40. Specifically, the day to day activities of Hampton and the Putative Class Members were conducted within designated parameters defined by FOS.
41. Hampton and the Putative Class Members were required by FOS to work well in excess of 40 hours each week.
42. The work Hampton and the Putative Class Members performed was an essential part of FOS's core business.
43. In fact, the work Hampton and the Putative Class Members performed was marketed on FOS's website.
44. During Hampton's employment with FOS, while he was classified as an independent contractor, FOS exercised control over all aspects of his job.
45. FOS told Hampton where to go, how to perform his job, the tools to use, and paper work to complete.
46. FOS did not require any substantial investment by Hampton for him to perform the work required.

47. In fact, FOS paid for all tools and equipment Hampton and the Putative Class Members used.

48. Hampton was not required to possess any unique or specialized skillset to perform his job duties. Hampton's job was not one that required advanced training. In fact, FOS told Hampton exactly how it wanted the job completed.

49. FOS determined Hampton's and the Putative Class Members' opportunity for profit and loss.

50. FOS set the rates of pay applicable to Hampton and the Putative Class Members.

51. FOS's pay rates were non-negotiable.

52. FOS did not allow Hampton or the Putative Class Members to contract out work assigned to them.

53. FOS did not require Hampton or the Putative Class Members to be responsible for financial losses incurred on its job sites.

54. FOS required Hampton and the Putative Class Members to only work for it during their employment with FOS.

55. Indeed, FOS controlled all the significant or meaningful aspects of the job duties performed by Hampton.

56. FOS controlled all aspects of Hampton's job activities by enforcing mandatory compliance with FOS policies and procedures.

57. Hampton and the Putative Class Members did not incur operating expenses like rent, payroll and marketing.

58. Hampton was economically dependent on FOS during his employment.

59. Indeed, the daily and weekly activities of Hampton and the Putative Class Members were routine and largely governed by standardized plans, procedures, and checklists created by FOS.

60. For the purposes of their overtime claims, the Putative Class Members performed substantially similar job duties related to servicing FOS's core business.

61. Hampton and the Putative Class Members were not employed by FOS on a project-by-project basis.

62. In fact, while Hampton was classified as an independent contractor, he was regularly on call for FOS and was expected to drop everything and work whenever needed.

63. The Putative Class Members worked similar hours and were denied overtime as a result of the same illegal pay practice. The Putative Class Members all worked in excess of 40 hours each week. Instead of paying them overtime, FOS paid the Putative Class Members a day-rate. FOS denied Hampton and the other Putative Class Members overtime for any hours worked in excess of 40 hours in a single workweek.

64. FOS's policy of failing to pay its independent contractors, including Hampton, overtime violates the FLSA because these workers are, for all purposes, employees.

65. Because Hampton was misclassified by FOS, he and the Putative Class Members should receive overtime for all hours that they worked in excess of 40 hours in each workweek.

VI. FLSA VIOLATIONS

66. As set forth herein, FOS violated the FLSA by failing to pay Hampton and the Putative Class Members overtime for hours worked in excess of forty (40) in a workweek. 29 U.S.C. § 207(a).

67. FOS knowingly, willfully, or in reckless disregard carried out this illegal pattern and practice of failing to pay Hampton and the Putative Class Members overtime compensation. FOS' failure to pay overtime compensation was neither reasonable, nor was the decision not to pay overtime made in good faith.

68. Accordingly, Hampton and the Putative Class Members are entitled to overtime wages under the FLSA in an amount equal to 1 and ½ times their regular rate of pay, plus liquidated damages,

attorney's fees and costs.

VII. PMWA ALLEGATIONS

69. FOS is subject to the overtime requirements of the PMWA because FOS is an employer under 43 P.S. § 333.103(g).

70. During all relevant times, Hampton and the PMWA Class were covered employees entitled to the above-described PMWA's protections. See 43 P.S. § 333.103(h).

71. FOS' compensation scheme that is applicable to Hampton and the PMWA Class failed to comply with either 43 P.S. § 333.104(c) or 34 Pa. Code § 231.43(b).

72. The PMWA requires employers like FOS to pay employees at one and one-half (1.5) times the regular rate of pay for hours worked in excess of forty (40) hours in any one week. Hampton and each member of the PMWA Class are entitled to overtime pay under the PMWA.

73. FOS has and had a policy and practice of misclassifying Hampton and each member of the Pennsylvania class as independent contractors and failing to pay these workers overtime for hours worked in excess of 40 hours per workweek.

74. Hampton and each member of the PMWA Class seek unpaid overtime in amount equal to 1.5 times the regular rate of pay for work performed in excess of 40 hours in a workweek, prejudgment interest, all available penalty wages, and such other legal and equitable relief as the Court deems just and proper.

75. Hampton and each member of the PMWA Class also seek recovery of attorneys' fees, costs, and expenses of this action, to be paid by FOS, as provided by the PMWA.

VIII. OHIO WAGE ACT ALLEGATIONS

76. Hampton brings this claim under the Ohio Wage Act as a Rule 23 class action.

77. The conduct alleged violates the Ohio Wage Act (O.R.C. §§4111).

78. At all relevant times, FOS were and are subject to the requirements of the Ohio Wage Act.

79. The Ohio Wage Act requires employers like FOS to pay employees at one and one-half (1.5) times the regular rate of pay for hours worked in excess of forty (40) hours in any one week. Hampton and the Putative Class Members are entitled to overtime pay under the Ohio Wage Acts.

80. FOS had a policy and practice of misclassifying Hampton and each member of the Ohio Wage Act class as independent contractors and failing to pay these workers overtime for hours worked in excess of 40 hours per workweek.

81. Hampton and the Putative Class Members seek unpaid overtime in amount equal to 1.5 times the regular rate of pay for work performed in excess of 40 hours in a workweek, prejudgment interest, all available penalty wages, and such other legal and equitable relief as the Court deems just and proper.

IX. CLASS AND COLLECTIVE ACTION ALLEGATIONS

82. Hampton incorporates all previous paragraphs and alleges that the illegal pay practices FOS imposed on Hampton were likewise imposed on the Putative Class Members.

83. Numerous individuals were victimized by this pattern, practice, and policy which is in willful violation of the FLSA, Ohio Wage Acts, and PMWA.

84. Numerous other individuals who worked with Hampton indicated they were improperly classified as independent contractors, paid in the same manner, did not receive a salary, and were not properly compensated for all hours worked as required by state and federal wage laws.

85. Based on his experiences and tenure with FOS, Hampton is aware that FOS's illegal practices were imposed on the Putative Class Members.

86. The Putative Class Members were all improperly classified as independent contractors and not afforded the overtime compensation when they worked in excess of forty (40) hours per week.

87. FOS's failure to pay wages and overtime compensation at the rates required by state and/or federal law result from generally applicable, systematic policies, and practices which are not dependent on the personal circumstances of the Putative Class Members.

88. Hampton's experiences are therefore typical of the experiences of the Putative Class Members.

89. The specific job titles or precise job locations of the Putative Class Members do not prevent class or collective treatment.

90. Hampton has no interest contrary to, or in conflict with, the Putative Class Members. Like each Putative Class Member, Hampton has an interest in obtaining the unpaid overtime wages owed to them under state and/or federal law.

91. A class and collective action, such as the instant one, is superior to other available means for fair and efficient adjudication of the lawsuit.

92. Absent this action, many Putative Class Members likely will not obtain redress of their injuries and FOS will reap the unjust benefits of violating the FLSA and applicable state labor laws.

93. Furthermore, even if some of the Putative Class Members could afford individual litigation against FOS, it would be unduly burdensome to the judicial system.

94. Concentrating the litigation in one forum will promote judicial economy and parity among the claims of individual members of the classes and provide for judicial consistency.

95. The questions of law and fact common to the Putative Class Members predominate over any questions affecting solely the individual members. Among the common questions of law and fact are:

- a. Whether FOS employed the Putative Class Members within the meaning of the applicable state and federal statutes, including the FLSA, Ohio Wage Acts, and PMWA;

- b. Whether the Putative Class Members were improperly misclassified as independent contractors;
- c. Whether the Putative Class Members were paid a salary;
- d. Whether FOS's decision to classify the Putative Class Members as independent contractors was made in good faith;
- e. Whether FOS's decision to not pay time and a half for overtime to the Putative Class Members was made in good faith;
- f. Whether FOS's violation of the FLSA was willful; and
- g. Whether FOS's illegal pay practices were applied uniformly across the nation to all Putative Class Members.

96. Hampton's claims are typical of the claims of the Putative Class Members. Hampton and the Putative Class Members sustained damages arising out of FOS's illegal and uniform employment policy.

97. Hampton knows of no difficulty that will be encountered in the management of this litigation that would preclude its ability to go forward as a collective or class action.

98. Although the issue of damages may be somewhat individual in character, there is no detraction from the common nucleus of liability facts. Therefore, this issue does not preclude collective and class action treatment.

RELIEF SOUGHT

99. WHEREFORE, Hampton prays for judgment against FOS as follows:

- a. An Order certifying a Rule 23 class action on behalf of all Putative Class Members who worked for FOS in Pennsylvania;
- b. An Order certifying a Rule 23 class action on behalf of all Putative Class

Members who worked for FOS in Pennsylvania;

- c. An Order certifying a 216(b) collective action on behalf of all Putative Class Members who worked for FOS nationwide;
- d. Judgment awarding Hampton and the Putative Class Members unpaid back wages and for liquidated damages equal in amount to the unpaid compensation found due to FOS under the FLSA;
- e. Judgment awarding Hampton and the PMWA Class all unpaid overtime and other damages available under the PMWA;
- f. For an Order awarding Hampton and the Ohio Wage Act Class all unpaid overtime and other damages available under the Ohio Wage Act;
- g. For an Order awarding Hampton and the PMWA Class their costs of this action;
- h. For an Order awarding Hampton and the Ohio Wage Act Class their costs of this action;
- i. For an Order awarding Hampton and the Putative Class Members their costs of this action under the FLSA;
- j. For an Order awarding Hampton and the PMWA Class their reasonable attorneys' fees and expenses as provided by the PMWA;
- k. For an Order awarding Hampton and the Ohio Wage Act Class their reasonable attorneys' fees and expenses as provided by the Ohio Wage Act;
- l. For an Order awarding Hampton and the Putative Class Members their reasonable attorneys' fees and expenses as provided by the FLSA;
- m. Pre- and post-judgment interest at the highest rate allowable by law; and
- n. All such other and further relief to which Hampton and the other Putative

Class Members may show themselves to be justly entitled.

Respectfully submitted,

/s/ Andrew W. Dunlap

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ATTORNEYS IN CHARGE 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

Roy Hampton, individually and on behalf of all others similarly situated,

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

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

Andrew W. Dunlap, Josephson Dunlap Law Firm, 11 Greenway Plaza,
Ste. 3050, Houston, TX 77046, Tel: (713)352-1100**DEFENDANTS**

Focus Optimization Solutions, Inc.

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)

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"/> 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

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:
Violation of the Fair Labor Standards Act**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

04/13/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ Andrew W. Dunlap

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

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JS 44AREVISED June, 2009
IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA
THIS CASE DESIGNATION SHEET MUST BE COMPLETED

PART A

This case belongs on the (☐ Erie ☐ Johnstown ☒ Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venang or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.

PART B (You are to check ONE of the following)

1. ☐ This case is related to Number _____ . Short Caption _____.
2. ☒ This case is not related to a pending or terminated case.

DEFINITIONS OF RELATED CASES:

CIVIL: Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit
EMINENT DOMAIN: Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

HABEAS CORPUS & CIVIL RIGHTS: All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

PART C

I. CIVIL CATEGORY (Select the applicable category).

1. ☐ Antitrust and Securities Act Cases
2. ☐ Labor-Management Relations
3. ☐ Habeas corpus
4. ☐ Civil Rights
5. ☐ Patent, Copyright, and Trademark
6. ☐ Eminent Domain
7. ☒ All other federal question cases
8. ☐ All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9. ☐ Insurance indemnity, contract and other diversity cases.
10. ☐ Government Collection Cases (shall include HEW Student Loans (Education), V A Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

Date: 04/13/2018

Andrew W. Dunlap

ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH SHEETS MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

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 six 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.
- 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.

EXHIBIT A

CONSENT TO JOIN WAGE CLAIM

Print Name: Roy Hampton

1. I hereby consent to participate in a collective action lawsuit against Performance Fluids Management/SWN to pursue my claims of unpaid overtime during the time that I worked with the company.
2. I understand that this lawsuit is brought under the Fair Labor Standards Act, and consent to be bound by the Court's decision.
3. I designate the law firm and attorneys at JOSEPHSON DUNLAP as my attorneys to prosecute my wage claims.
4. I authorize the law firm and attorneys at JOSEPHSON DUNLAP to use this consent to file my claim in a separate lawsuit, class/collective action, or arbitration against the company.

Signature: *Roy Hampton*
Roy Hampton (Apr 5, 2018)

Date Signed: Apr 5, 2018

Western District of Pennsylvania

Civil Action No.

Signature of Clerk or Deputy Clerk

Civil Action No. _____

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

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____ , a person of suitable age and discretion who resides there,
 on *(date)* _____ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____ , who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Alleges Focus Optimization Solutions Misclassified Oilfield Workers, Owes Unpaid OT](#)
