

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

MARLEN HARDING,
Individually and on behalf of all others
similarly situated

Plaintiff,

v.

CLABORN’S ELITE LAWNs, LLC,
JOHN BRIAN CLABORN and APRIL
CLABORN,

Defendants.

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Civil Action No. CIV-18-910-R

JURY TRIAL DEMANDED

COLLECTIVE ACTION
PURSUANT TO 29 U.S.C. § 216(b)

ORIGINAL COLLECTIVE ACTION COMPLAINT

Marlen Harding (“Plaintiff” or “Harding”) brings this action individually and on behalf of all others similarly situated (hereinafter “Plaintiff and the Putative Class Members”) who worked for Defendants Claborn’s Elite Lawns, LLC (hereinafter “CEL”), John Brian Claborn (hereinafter “Brian Claborn”), and/or April Claborn (hereinafter “April Claborn”) (collectively “Defendants”) at any time from September 14, 2015 through the final disposition of this matter, to recover compensation, liquidated damages, attorneys’ fees, and costs, pursuant to the provisions of Section 216(b) of the Fair Labor Standards Act of 1938, as amended 29 U.S.C. § 216(b).

**I.
OVERVIEW**

1. This is a collective action to recover overtime wages brought pursuant to the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201–19.

2. Plaintiff and the Putative Class Members are those similarly situated persons who worked for Defendants at any time from September 14, 2015 through the final disposition of this matter, and were paid hourly, but did not receive overtime for all hours worked over forty (40) in each workweek.

3. Upon information and belief, Defendants improperly classified Plaintiff and the Putative Class Members as independent contractors.

4. Plaintiff and the Putative Class Members routinely work (and worked) in excess of forty (40) hours per workweek, however, Plaintiff and the Putative Class Members were not paid overtime of at least one and one-half their regular rates for all hours worked in excess of forty (40) hours per workweek.

5. Defendants knowingly and deliberately failed to compensate Plaintiff and the Putative Class Members overtime of at least one and one-half their regular rates for all hours worked in excess of forty (40) hours per workweek.

6. The decision by Defendants not to pay overtime compensation to Plaintiff and the Putative Class Members was neither reasonable nor in good faith.

7. Plaintiff and the Putative Class Members did not and currently do not perform work that meets the definition of exempt work under the FLSA. Specifically, Plaintiff and the Putative Class Members were laborers responsible for performing landscaping services on behalf of Defendants and their clients.

8. Plaintiff and the Putative Class Members therefore seek to recover all unpaid overtime and other damages owed under the FLSA as a collective action pursuant to 29 U.S.C. § 216(b).

9. Plaintiff also prays that all similarly situated workers (Putative Class Members) be notified of the pendency of this action to apprise them of their rights and provide them an opportunity to opt-in to this lawsuit.

II. THE PARTIES

10. Plaintiff Marlen Harding (“Harding”) worked for Defendants within the relevant time period. Plaintiff Harding did not receive overtime compensation for all hours worked in excess of forty (40) hours per workweek.¹

11. The Putative Class Members are those current and former employees who worked for Defendants at any time since September 14, 2015 and have been subjected to the same illegal pay system under which Plaintiff Harding worked and was paid.

12. Defendant Claborn’s Elite Lawns, LLC (“CEL”) is a domestic limited liability company, licensed to and doing business in Oklahoma, and may be served through its registered agent for services of process: **Claborn’s Elite Lawns, LLC, 9901 Hill Road, Jones, Oklahoma, 73049.**

13. Defendant John Brian Claborn (“Brian Claborn”) is CEL’s President, and is an employer as defined by 29 U.S.C. §203(d). Along with the other Defendants, Defendant Brian Claborn employed and/or jointly employed Plaintiff and the Putative Class Members. Brian Claborn may be served with process at: **9901 Hill Road, Jones, Oklahoma, 73049, or wherever he may be found.**

¹ The written consent of Marlen Harding is attached hereto as Exhibit “A.”

14. Upon information and belief, Defendant April Claborn (“April Claborn”) is CEL’s Vice President. Defendant April Claborn is an employer as defined by 29 U.S.C. § 203(d). Along with the other Defendants, she employed and/or jointly employed Plaintiff and the Putative Class Members. April Claborn may be served with process at: **9901 Hill Road, Jones, Oklahoma, 73049, or wherever she may be found.**

15. Defendants are joint employers pursuant to 29 C.F.R. § 791.2. They have common ownership, oversight and control over Plaintiff and the Putative Class Members. As a result, all Defendants are responsible, both individually and jointly, for compliance with all of the applicable provisions of the FLSA, including the overtime provisions, with respect to the entire employment for the workweeks at issue in this case.

III. JURISDICTION & VENUE

16. This Court has federal question jurisdiction over this case pursuant to 28 U.S.C. § 1331 as this is an action arising under 29 U.S.C. §§ 201–19.

17. This Court has personal jurisdiction over Defendants because the cause of action arose within this district as a result of Defendants’ conduct within this District and Division.

18. Venue is proper in the Western District of Oklahoma because this is a judicial district where a substantial part of the events or omissions giving rise to the claim occurred.

19. Specifically, Plaintiff and the Putative Class Members worked in and around the Oklahoma City area throughout their employment with Defendants, which is located within this District and Division.

20. Venue is therefore proper in this Court pursuant to 28 U.S.C. § 1391(b).

**IV.
ADDITIONAL FACTS**

21. Defendants provide landscaping and lawncare services to individuals in and around the Oklahoma City area.

22. To provide their services, Defendants employed (and continue to employ) numerous hourly laborers—including Plaintiff Harding and the Putative Class Members.

23. While exact job titles may differ, these employees were subjected to the same or similar illegal pay practices for similar work.

24. Plaintiff and the Putative Class Members' primary job duties consisted of performing general labor related to landscaping, including cutting grass, weed-eating, trimming bushes and trees, and applying mulch to beds.

25. Plaintiff Harding was employed by Defendants as a laborer from approximately May 2018 until September 2018.

26. Despite being (mis)classified as independent contractors, Plaintiff and the Putative Class Members were (and are) non-exempt employees paid an hourly rate.

27. Specifically, Plaintiff Harding received \$11.00 per hour, but did not receive overtime compensation at the required rate of time-and-one-half for all hours worked over forty (40) each workweek, and in fact, did not receive any overtime compensation at all.

Defendants are Joint Employers under the FLSA

28. Defendants are joint employers pursuant to 29 C.F.R. § 791.2.

29. Defendants directly or indirectly hired Plaintiff and the Putative Class Members, controlled their work schedules and conditions of employment, and determined the rate and method of the payment of their wages.

30. Defendant Brian Claborn initially hired Plaintiff Harding and set his rate of payment and dictated that he would be paid on a weekly basis.

31. Defendant April Claborn communicated to Plaintiff and the Putative Class the routes they were to take in the performance of their duties.

32. Defendant April Claborn maintained Plaintiff Harding's time records and his checks were tendered to him by Defendant April Claborn in CEL's office.

33. Defendants maintained control, oversight, and direction over Plaintiff and the Putative Class Members, including the promulgation and enforcement of policies affecting the payment of wages for overtime compensation.

34. Specifically, Defendants Brian Claborn and April Claborn regularly instructed Plaintiff Harding about the work he was to perform.

35. Plaintiff Harding received daily direction from Defendants Brian Claborn and April Claborn about what tasks he was to perform for Defendants' clients, which tools to use for those tasks, and when and where he was to perform those tasks.

36. Defendants mutually benefitted from the work performed by Plaintiff and the Putative Class Members.

37. Defendants shared the services of Plaintiff and Putative Class Members.

38. Defendants acted directly or indirectly in the interest of each other in relation to Plaintiff and the Putative Class Members.

39. Defendants did not act entirely independently of each other and have not been completely disassociated with respect to the work of Plaintiff and the Putative Class Members.

40. Specifically, Defendants dictated the practice goals and what pressing or tactical items needed to be done in order to meet the goals of the respective Defendants and/or their clients

41. Moreover, all Defendants had the power to hire and fire Plaintiff and the Putative Class Members; supervise and control Plaintiff and the Putative Class Members' work schedules and conditions of their employment; determine their rate and method of payment; and, maintain their employment records.

42. As a result, all Defendants are responsible, both individually and jointly, for compliance with all of the applicable provisions of the FLSA, including the overtime provisions, with respect to the entire employment for the workweeks at issue in this case.

***Plaintiff and the Putative Class Members are Employees;
Not Independent Contractors***

43. Plaintiff and the Putative Class Members' primary job duties included performing daily landscaping and lawn care tasks for Defendants' clients, all of which were (and continue to be) assigned by Defendants.

44. Plaintiff and the Putative Class Members would conduct their day-to-day activities within designed parameters and in accordance with pre-determined operational plans coordinated by Defendants.

45. Plaintiff and the Putative Class Members' daily and weekly activities were routine and largely governed by standardized plans and procedures set by Defendants.

46. Virtually every job function was pre-determined by Defendants, including how to perform the tasks set by Defendants, the schedule of work, and related work duties.

47. In fact, Plaintiff and the Putative Class Members were prohibited from varying their job duties outside of the predetermined parameters.

48. Moreover, Plaintiff and the Putative Class Members' job functions were primarily routine and manual labor in nature, requiring little to no official training, much less a college education or other advanced degree.

49. Indeed, Plaintiff and the Putative Class Members are blue-collar workers. They rely on their hands, physical skills, and energy to perform manual and routine labor.

50. Defendants determined the hours Plaintiff and the Putative Class Members worked.

51. Defendants set Plaintiff and the Putative Class Members' pay and controlled the number of hours they worked.

52. Defendants set all employment-related policies applicable to Plaintiff and the Putative Class Members.

53. Defendants maintained control over pricing and marketing. Defendants also chose equipment and product suppliers.

54. Defendants owned or controlled the equipment and supplies Plaintiff and the Putative Class Members used to perform their work.

55. Defendants had the power to hire and fire Plaintiff and the Putative Class Members.

56. Defendants made all personnel and payroll decisions with respect to Plaintiff and the Putative Class Members, including but not limited to, the decision to pay Plaintiff and the Putative Class Members an hourly rate with no overtime pay.

57. Defendants bought or provided the materials Plaintiff and the Potential Class Members used.

58. Plaintiff and the Putative Class Members did not employ their own workers.

59. Plaintiff and the Putative Class Members worked continuously for Defendants on a permanent full-time basis.

60. Defendants, instead of Plaintiff and the Putative Class Members, made the large capital investments in vehicles, buildings, equipment, and supplies. Moreover, Defendants paid operating expenses like rent, payroll, marketing, insurance, and bills.

61. Plaintiff and the Putative Class Members relied on Defendants for their work. Plaintiff and the Putative Class Members did not market any business or services of their own.

62. Instead, Plaintiff and the Putative Class Members worked the hours assigned by Defendants, performed duties assigned by Defendants, worked on projects assigned by Defendants, and worked for the benefit of Defendants' customers.

63. Defendants paid Plaintiff and the Putative Class Members on a weekly basis. Plaintiff and the Putative Class Members did not earn a profit based on any business investment of their own.

64. Defendants improperly classified Plaintiff and the Putative Class Members as independent contractors. The classification was improper because Plaintiff and the Putative

Class Members were not in business for themselves. Instead, they were economically dependent upon Defendants for their work.

65. Plaintiff the Putative Class Members regularly worked in excess of forty (40) hours per week.

66. Plaintiff Harding worked an average of 50 hours per week, but did not receive overtime compensation at the required rate of time-and-one-half for all hours worked over forty (40) each week.

67. Defendants denied Plaintiff and the Putative Class Members overtime compensation as a result of a widely applicable and illegal pay practice wherein they (mis)classified Plaintiff and the Putative Class Members as independent contractors.

68. The FLSA mandates that overtime be paid at one and one-half times an employee's regular rate of pay.

69. Accordingly, Defendants' pay policies and practices violated (and continue to violate) the FLSA.

70. Defendants knew or should have known that they misclassified Plaintiff and the Putative Class Members as independent contractors, and that Plaintiff and the Putative Class Members were entitled to overtime compensation pursuant to the FLSA.

71. Defendants' actions therefore constitute willful violations under the FLSA and were not made in good faith.

V.
CAUSE OF ACTION
(Collective Action Alleging FLSA Violations)

A. FLSA COVERAGE

72. All previous paragraphs are incorporated as though fully set forth herein.

73. The FLSA Collective is defined as:

ALL HOURLY WORKERS WHO WORKED FOR CLABORN'S ELITE LAWNS, LLC, JOHN BRIAN CLABORN, AND/OR APRIL CLABORN AT ANY TIME FROM SEPTEMBER 14, 2015 THROUGH THE FINAL DISPOSITION OF THIS MATTER, AND DID NOT RECEIVE OVERTIME FOR ALL HOURS WORKED OVER FORTY EACH WEEK ("FLSA Collective" or "FLSA Collective Members").

74. At all times hereinafter mentioned, Defendants have been joint employers within the meaning of Section 3(r) of the FLSA, 29 U.S.C. § 203(r).

75. At all times hereinafter mentioned, Defendants have been 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 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, or in any closely related process or occupation directly essential to the production thereof, and in that the enterprise has had, and has, an annual gross volume of sales made or business done of not less than \$500,000.00 (exclusive of excise taxes at the retail level which are separately stated).

76. Specifically, Defendants operate on interstate highways, purchase materials through commerce, transport materials through commerce and on the interstate highways, and conduct transactions through commerce, including the use of credit cards, phones and/or cell phones, electronic mail and the Internet.

77. During the respective periods of Plaintiff and the Putative Class Members' employment by Defendants, these individuals provided services for Defendants that involved interstate commerce.

78. In performing the operations hereinabove described, Plaintiff and the Putative Class Members were engaged in commerce or in the production of goods for commerce within the meaning of §§ 203(b), 203(i), 203(j), 206(a), and 207(a) of the FLSA. 29 U.S.C. §§ 203(b), 203(i), 203(j), 206(a), 207(a).

79. Specifically, Plaintiff was a non-exempt employee who worked for Defendants during the relevant time period and was engaged in labor that was directly essential to the production of goods for Defendants. 29 U.S.C. § 203(j).

80. At all times hereinafter mentioned, Plaintiff and the Putative Class Members are (or were) individual employees who were engaged in commerce or in the production of goods for commerce as required by 29 U.S.C. §§ 206–07.

81. In violating the FLSA, Defendants acted willfully, without a good faith basis and with reckless disregard of applicable federal law.

82. The proposed collective of similarly situated employees, i.e. putative collective members sought to be certified pursuant to 29 U.S.C. § 216(b), is defined in Paragraph 73.

83. The precise size and identity of the proposed class should be ascertainable from the business records, tax records, and/or employee or personnel records of Defendants.

B. FAILURE TO PAY WAGES IN ACCORDANCE WITH THE FLSA

84. All previous paragraphs are incorporated as though fully set forth herein.

85. Defendants violated provisions of Sections 7 and 15 of the FLSA, 29 U.S.C. §§ 207 and 215(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 for workweeks longer than forty (40) hours without compensating such employees for all hours worked, including time worked in excess of forty (40) hours per week at rates at least one and one-half times the regular rates for which they were employed.

86. Plaintiff and the FLSA Collective Members have suffered damages and continue to suffer damages as a result of Defendants' acts or omissions as described herein; though Defendants are in possession and control of necessary documents and information from which Plaintiff would be able to precisely calculate damages.

87. Moreover, Defendants knowingly, willfully and in reckless disregard carried out their illegal pattern of failing to pay Plaintiff and other similarly situated employees for all hours worked and the correct amount of overtime compensation. 29 U.S.C. § 255(a).

88. Defendants knew or should have known their pay practices were in violation of the FLSA.

89. Defendants are sophisticated parties and employers, and therefore knew (or should have known) their policies were in violation of the FLSA.

90. Plaintiff and the Putative Class Members, on the other hand, are (and were) unsophisticated laborers who trusted Defendants to pay according to the law.

91. The decision and practice by Defendants to not pay for all hours worked and the proper amount of overtime for all hours worked was neither reasonable nor in good faith.

92. Accordingly, Plaintiff and the Putative Class Members are entitled to overtime wages for all hours worked pursuant to the FLSA in an amount equal to one-and-a-half times their regular rate of pay, plus liquidated damages, attorneys' fees and costs.

C. FLSA COLLECTIVE ACTION ALLEGATIONS

93. All previous paragraphs are incorporated as though fully set forth herein.

94. Pursuant to 29 U.S.C. § 216(b), this is a collective action filed on behalf of all those who are (or were) similarly situated to Plaintiff.

95. Other similarly situated employees have been victimized by Defendants' patterns, practices, and policies, which are in willful violation of the FLSA.

96. The Putative Class Members are defined in Paragraph 73.

97. Defendants' failure to pay wages for all hours worked and overtime compensation at the rates required by the FLSA results from generally applicable policies and practices, and does not depend on the personal circumstances of the Putative Class Members.

98. Thus, Plaintiff's experiences are typical of the experiences of the Putative Class Members.

99. The specific job titles or precise job requirements of the various Putative Class Members does not prevent collective treatment.

100. All of the Putative Class Members—regardless of their specific job titles, precise job requirements, rates of pay, or job locations—are entitled to be properly compensated for all hours worked and at the correct overtime rate for all hours that are worked in excess of forty (40) hours per workweek.

101. Although the issues of damages may be individual in character, there is no detracting from the common nucleus of liability facts.

102. Absent a collective action, many members of the proposed FLSA class likely will not obtain redress of their injuries and Defendants will retain the proceeds of their rampant violations of federal wage and hour laws.

103. Moreover, individual litigation would be unduly burdensome to the judicial system. Concentrating the litigation in one forum will promote judicial economy and parity among the claims of the individual members of the classes and provide for judicial consistency.

104. Accordingly, the FLSA collective of similarly situated plaintiffs should be certified as defined as in Paragraph 73 and notice should be promptly sent.

VI. RELIEF SOUGHT

105. Plaintiff respectfully prays for judgment against Defendants as follows:

a. For an Order certifying the FLSA Collective as defined in Paragraph 73 and requiring Defendants to provide the names, addresses, e-mail addresses, telephone numbers, and social security numbers of all putative FLSA Collective Members;

b. For an Order approving the form and content of a notice to be sent to all putative collective action members advising them of the pendency of this litigation and of their rights with respect thereto;

c. For an Order awarding Plaintiff (and those FLSA Collective Members who have joined in the suit) back wages that have been improperly withheld;

d. For an Order pursuant to Section 16(b) of the FLSA finding Defendants liable for unpaid back wages due to Plaintiff (and those FLSA Collective Members who have

joined in the suit), and for liquidated damages equal in amount to the unpaid compensation found due to Plaintiff (and those who have joined in the suit);

e. For an Order awarding the costs of this action;

f. For an Order awarding attorneys' fees;

g. For an Order awarding pre-judgment and post-judgment interest at the highest rates allowed by law;

h. For an Order awarding Plaintiff a service award as permitted by law;

i. For an Order compelling the accounting of the books and records of Defendants, at Defendants' expense; and

j. For an Order granting such other and further relief as may be necessary and appropriate.

Date: September 14, 2018

Respectfully submitted,

MCINTYRE LAW PC

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***Attorneys for Plaintiff and Putative Class
Members***

CONSENT TO JOIN WAGE CLAIM

Print Name: Marlen Harding

1. I hereby consent to participate in a collective action lawsuit against **CLABORN'S ELITE LAWNS LLC** 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 ANDERSON ALEXANDER, PLLC as my attorneys to prosecute my wage claims.
4. I intend to pursue my claim individually, unless and until the Court certifies this case as a collective action. I agree to serve as the Class Representative if the Court so approves. If someone else serves as the Class Representative, then I designate the Class Representative(s) as my agents to make decisions on my behalf concerning the litigation, the method and manner of conducting the litigation, the entering of an agreement with the Plaintiffs' counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit.
5. I authorize the law firm and attorneys at ANDERSON ALEXANDER, PLLC to use this consent to file my claim in a separate lawsuit, class/collective action, or arbitration against the company.

Signature: 
Marlen Harding (Sep 5, 2018)

Date: Sep 5, 2018

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

Marlen Harding, Individually and on behalf of all others similarly situated, Plaintiffs,

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

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

Clif Alexander, Anderson Alexander, PLLC, 819 N. Upper Broadway, Corpus Christi, TX 78401 and Noble McIntyre, McIntyre Law, 8601 S. Western Avenue, Oklahoma City, OK 73139

DEFENDANTS

Claborn's Elite Lawns LLC, John Brian Claborn, and April Claborn, Defendants.

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, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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

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

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 29 USC §216(b), 28 USC §1331

Brief description of cause: FLSA

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

09/14/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ Clif Alexander

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

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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.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: ['Misclassified' Employee Seeks Allegedly Unpaid OT From Claborn's Elite Lawns](#)
