

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
PHILADELPHIA DIVISION

| | | |
|---|---|-------------------------|
| EDWIN JOHNSON, on behalf of | : | |
| himself and all others similarly situated, | : | |
| | : | |
| Plaintiff, | : | |
| | : | CIVIL ACTION NO.: _____ |
| v. | : | |
| | : | |
| WALMART INC., | : | |
| | : | |
| Defendant. | : | |
| | : | |

NOTICE OF REMOVAL

Defendant Walmart Inc. (“Walmart”) files this Notice of Removal pursuant to 28 U.S.C. §§ 1332(d), 1441, and 1453 and hereby removes this action to the United States District Court for the Eastern District of Pennsylvania, Philadelphia Division from the Court of Common Pleas of Delaware County, Pennsylvania. This Court has original jurisdiction over this action pursuant to the Class Action Fairness Act (“CAFA”). Walmart hereby provides “a short and plain statement of the grounds for removal” pursuant to 28 U.S.C. § 1446(a) and *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 87 (2014).

I. BACKGROUND AND PROCEDURAL HISTORY

1. On October 21, 2021, Plaintiff Edwin Johnson (“Plaintiff”) filed a civil action against Walmart, in the Court of Common Pleas of Delaware County, Pennsylvania, styled *EDWIN JOHNSON, on behalf of himself and all others similarly situated v. WALMART INC.*, Cause No. CV-2021-008818. Plaintiff seeks recovery from Walmart for alleged violations of Pennsylvania’s

Criminal History Record Information Act (“CHRIA”). A true and correct copy of Plaintiff’s Original Complaint is included in the documents attached as **Exhibit A** to this filing.

2. Plaintiff has three felony drug convictions and one misdemeanor conviction. Compl., ¶ 8. Plaintiff asserts that Walmart denied him employment due to his prior criminal convictions. *Id.* at ¶ 30. He further asserts that Walmart’s decision violates CHRIA because “his criminal history was not relevant to the entry-level stocking position for which he applied.” *Id.* at ¶ 33.

3. In addition to asserting claims on his own behalf, Plaintiff purports to bring his claims against Walmart on behalf of a putative class, defined as: “[a]ll applicants for employment with Walmart in Pennsylvania during the applicable statute of limitations period through the date of final judgment who were denied employment at Walmart based in whole or in part on their criminal history.” *Id.* at ¶ 51.

4. As set forth below, this action satisfies all the requirements for removal under CAFA.

II. THE PARTIES

5. Plaintiff is “currently a resident of Morton, Pennsylvania.” Compl., ¶ 7. As noted above, the proposed class comprises certain “applicants for employment with Walmart in Pennsylvania[.]” *Id.* at ¶ 51.

6. Walmart is a corporation organized under the laws of Delaware with its principal place of business in Bentonville, Arkansas. Walmart is therefore a citizen of Delaware and Arkansas for diversity purposes. *See* 28 U.S.C. § 1332(c)(1).

III. THE COURT HAS JURISDICTION UNDER 28 U.S.C. § 1332(d)

7. This Court has subject matter jurisdiction over Plaintiffs’ claims under CAFA.

8. “No antiremoval presumption attends cases invoking CAFA, which Congress

enacted to facilitate adjudication of certain class actions in federal court.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89 (2014). Rather, CAFA “should be read broadly.” *Portnoff v. Janssen Pharm., Inc.*, 237 F.Supp.3d 253, 257 (E.D. Pa. 2017) (citing *Dart Cherokee*, 574 U.S. at 89).

9. Jurisdiction exists under CAFA if the litigation is a “class action” as defined by CAFA, “the amount in controversy exceeds the sum or value or \$5,000,000,” and “any member of a class of plaintiffs is a citizen of a State different from any defendant.” 28 U.S.C. § 1332(d)(2).

A. This Litigation is a “Class Action” Under CAFA

10. CAFA defines a “class action” as “any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule or judicial procedure authorizing an action to be brought by 1 or more representative persons as a class action.” 28 U.S.C. § 1332(d)(1)(B).

11. Plaintiff’s complaint specifically alleges that he “brings this case as a ‘class action’ within the scope and meaning of Pa.R.C.P. 1701(a).” Compl., ¶ 51.

12. Plaintiffs seek “an order certifying this action as a Class Action under Pa.R.C.P. 1708.” Compl., Prayer for Relief ¶ c.

13. Actions seeking class treatment under Pennsylvania Rule of Civil Procedure 1701 *et seq.* are “class actions” for purposes of CAFA. *See Kotsur v. Goodman Glob., Inc.*, No. 14-cv-0147, 2014 WL 6388432 at *2 (E.D. Pa. Nov. 17, 2014) (citing *Erie Ins. Exchange v. Erie Indem. Co.*, 722 F.3d 154, 159-60 (3d Cir.2013)) (“Plaintiff filed a state court ‘class action’ as defined by CAFA since it was filed pursuant to Pennsylvania Rule of Civil Procedure 1702.”).

B. Plaintiff's Claims Meet CAFA's Jurisdictional Minimum.

14. In order for original jurisdiction to exist under CAFA, “the matter in controversy [must] exceed[] the sum or value of \$5,000,000, exclusive of interest and costs.” 28 U.S.C. § 1332(d)(2).

15. Walmart demonstrates below that the matter in controversy exceeds the jurisdictional minimum by showing (i) under the CHIRA's statutory damages provision, the putative class need only include 500 individuals to reach \$5,000,000, and the class undoubtedly is larger than that; and (ii) Plaintiff is also seeking attorneys' fees, meaning that the putative class could comprise even fewer individuals and still meet the jurisdictional minimum.

16. Walmart's notice of removal “need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee Basin Operating Co. v. Ownes*, 574 U.S. 81, 89 (2014).

17. Plaintiff alleges that Walmart's alleged CHRIA violations affect “many qualified applicants” in Pennsylvania, “the number of which is far greater than feasibly could be addressed through joinder.” Compl., ¶¶ 3, 54. Plaintiff further alleges that Walmart “employs over 55,000 hourly field associates in Pennsylvania” in “approximately 160 retail stores and 7 distribution centers” located in the state. *Id.* at ¶¶ 11, 12.

18. The purported class includes all applicants for employment with Walmart in Pennsylvania “during the applicable statute of limitations period” who were denied employment at Walmart based in whole or in part on their criminal history. *Id.* at ¶ 51.

19. Plaintiff requests “all statutory damages provided by CHRIA” on behalf of the proposed class, including “actual and real damages for each violation.” Compl., Prayer for Relief, ¶ g. Plaintiff also asserts that Walmart has “acted willfully in violating the requirements of

CHRIA,” and therefore requests “exemplary and punitive damages for each violation found to be willful.” *Id.*, ¶ 50; *id.* at Prayer for Relief, ¶ g.

20. CHRIA provides for “actual and real damages of not less than \$100 for each violation.” 18 Pa.C.S.A. § 9183(b)(2). It also provides for exemplary damages of “not less than \$1,000 nor more than \$10,000” for each willful violation of its provisions. *Id.* See also *Taha v. Bucks Cty. Penn.*, 408 F. Supp. 3d 628, 647 (E.D. Pa. 2019) (affirming aggregate exemplary damages award in CHRIA class action and noting that the CHRIA “empower[s] [juries] to award up to \$10,000 [in exemplary damages] per violation” so long as the verdict complies with due process and reasonableness requirements).

21. The damages that Plaintiff seeks on behalf of each of the “many” members of this putative class are aggregated for purposes of determining the amount in controversy. 28 U.S.C. § 1332(d)(6). In order to reach the \$5,000,000 jurisdictional minimum based on statutory and exemplary damages alone, the class would need to comprise just 500 individuals ($\$5,000,000 \div \$10,000 = 500$).

22. On information and belief, in calendar year 2021 alone, Walmart categorized as ineligible for hire, based on criminal background checks, more than 500 individuals in Pennsylvania.¹ Thus, the case satisfies CAFA’s jurisdictional minimum based on statutory and exemplary damages alone.

23. Additionally, Plaintiff seeks costs and attorneys’ fees. Compl., Prayer for Relief ¶ h. CHRIA entitles prevailing plaintiffs to “reasonable costs of litigation and attorney’s fees.”

¹ The ultimate size of the class depends on how far back the limitations period stretches. The CHRIA does not include a limitations period, and the Pennsylvania Supreme Court has not selected a limitations period to apply under the statute. But the Court need not look farther back than the past 11 months—which is surely within the applicable limitations period—to conclude that the putative class is seeking more than the jurisdictional minimum.

18 Pa.C.S.A. § 9183(b)(2). Attorneys' fees therefore "count for CAFA's amount-in-controversy threshold" in this case. *Verma v. 3001 Castor, Inc.*, 937 F.3d 221, 227 (3d Cir. 2019). *See also Lewis v. Ford Motor Co.*, 610 F.Supp.2d 476, 486 (W.D. Pa. 2009) (attorneys' fees provided by statute are "properly considered in the [CAFA amount-in-controversy] calculation").

24. "As a general rule, the method of determining reasonable attorneys' fees under fee-shifting provisions in Pennsylvania is the lodestar approach." *Taha v. Bucks Cty. Penn.*, No. 12-cv-06867, 2020 WL 7024238 at *8 (E.D. Pa. Nov. 30, 2020) (citing *Branch Banking & Trust Co. v. Angino Law Firm, P.C.*, 809 F. App'x 102 (3d Cir. 2020)). Given the complexity of CHRIA claims and the protracted litigation they can create, attorneys' fees alone can exceed \$5 million. *Id.* (approving settlement agreement in CHRIA class action providing for \$4 million in attorneys' fees, but noting that the \$6.3 million fee award resulting from standard lodestar calculations would have also been "reasonable").

25. Based on Plaintiff's own allegations, then, the amount-in-controversy in this case plausibly exceeds \$5 million.

C. The Parties Satisfy The Minimum Diversity Requirements.

26. Plaintiff is "currently a resident of Morton, Pennsylvania," and the proposed class comprises certain "applicants for employment with Walmart in Pennsylvania," while for diversity purposes Walmart is a citizen of Delaware and Arkansas. *See* ¶¶ 6-7, *supra*.

27. This action therefore satisfies the requirement of 28 U.S.C. § 1332(d)(2) that "any member of a class of plaintiffs is a citizen of a State different from any defendant." 28 U.S.C. § 1332(d)(2)(A).

IV. REMOVAL IS PROPER

28. The Original Petition is removable. Counsel for Walmart signed a service waiver form pursuant to Pennsylvania Rule of Civil Procedure 402(b) on November 22, 2021. Plaintiff's counsel filed the waiver with the state court on November 24, 2021. This notice of removal is therefore timely because it is filed within 30 days of the filing of the waiver of service form. 28 U.S.C. § 1446(b). *See also Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 344 (1999) (removal deadline does not take effect "by mere receipt of the complaint unattended by any formal service [or waiver of service]").

29. The United States District Court for the Eastern District of Pennsylvania is the federal judicial district embracing the Court of Common Pleas of Delaware County, Pennsylvania, where the suit was originally filed. *See* 28 U.S.C. § 118(a). Removal to this Court is therefore proper in this Court under 28 U.S.C. § 1441(a).

30. Walmart attaches a copy of all process, pleadings, and orders served upon it in accordance with 28 U.S.C. § 1446(a) as **Exhibit A**.

31. Pursuant to 28 U.S.C. § 1446(d), undersigned counsel certifies that the Notice of Removal will be served promptly on Plaintiff and will be filed with the Clerk of the Court of Common Pleas of Delaware County, Pennsylvania.

WHEREFORE, Walmart hereby removes this Action from the Clerk of the Court of Common Pleas of Delaware County, Pennsylvania, to this Court, pursuant to 28 U.S.C. §§ 1332 and 1441.

Dated: December 8, 2021

Respectfully submitted,

/s/ Thomas R. Waskom

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Counsel for Defendant Walmart Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Notice of Removal, Exhibits, and Forms was sent, via electronic filing and First Class U.S. mail, on this 8th day of December, 2021, to the following:

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/s/ Thomas R. Waskom
Thomas R. Waskom

Exhibit A

DELAWARE COUNTY, PENNSYLVANIA E-FILING

THOMAS R WASKOM



Case View - CV-2021-008818



CASE INFORMATION

| | | | |
|--------------------------|-------------------------|------------------|--|
| Court Level | Court of Common Pleas | Court | Delaware County Court of Common Pleas |
| Case Title | Johnson v. Walmart Inc. | Case Type | Civil - Contract - Employment Dispute: Other |
| Filed Date | 10-25-2021 | Status | Active |
| Next Hearing | | Judge | Dozor, Barry, Judge |
| Next Hearing Type | | | |

PARTIES / PARTICIPANTS

| # | Role | Name | Attorney | Service Type |
|---|-----------|----------------|--|--|
| 1 | Plaintiff | Johnson, Edwin | Aaron, Deirdre SERENI, MARK A MIKULA, LISANNE L MCCARTHY, LAURIE ANDERSON | eService eService Conventional Conventional |
| 1 | Defendant | Walmart Inc. | WAKSOM, THOMAS R | Conventional |

1 to 2 of 2 records

FILTER

DOCKET SHEET

| Filed Date | Document Description | Filed By | |
|------------|---|---------------------------------|--|
| 11-29-2021 | Miscellaneous - Entry of Appearance for Defendant | Walmart Inc. | |
| 11-29-2021 | Financials - Receipt | | |
| 11-24-2021 | Service - Acceptance of Service | Walmart Inc. | |
| 11-05-2021 | Miscellaneous - Jury Trial Demanded | Edwin Johnson | |
| 11-04-2021 | Miscellaneous - Entry of Appearance | Edwin Johnson | |
| 10-25-2021 | Financials - Receipt | | |
| 10-22-2021 | Commenced by - Complaint | Edwin Johnson, Edwin Johnson | |

1 to 7 of 7 records

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**IN THE COURT OF COMMON PLEAS OF
DELAWARE COUNTY, PENNSYLVANIA**

EDWIN JOHNSON, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

WALMART INC.,

Defendant.

CIVIL DIVISION

CLASS ACTION

No. _____

JURY TRIAL DEMANDED

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Delaware County Bar Association's Lawyer Referral Service
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**IN THE COURT OF COMMON PLEAS OF
DELAWARE COUNTY, PENNSYLVANIA**

EDWIN JOHNSON, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

WALMART INC.,

Defendant.

CIVIL DIVISION

CLASS ACTION

No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Edwin Johnson (“Plaintiff”), individually and on behalf of all others similarly situated, alleges, upon personal knowledge as to himself and upon information and belief as to other matters, as follows:

PRELIMINARY STATEMENT

1. This putative class action is brought under the Criminal History Record Information Act (“CHRIA”), 18 Pa.C.S. § 9125, against an employer that unfairly and unlawfully creates hurdles for thousands of individuals with criminal records seeking employment in Pennsylvania, to the detriment of both the applicants and the Commonwealth’s economy.

2. Defendant Walmart Inc. (“Walmart”) is the nation’s largest private employer. It owns and/or operates approximately 160 retail stores and 7 distribution centers in Pennsylvania, including stores located in Delaware County.

3. Each year, Walmart hires thousands of individuals in Pennsylvania, but each year it also denies employment to many qualified applicants because of their criminal records, even where the applicant’s conviction has no bearing on their suitability for the job.

4. Walmart’s overbroad criminal history policy is unlawful under Pennsylvania’s CHRIA, 18 Pa.C.S. § 9125, which permits employers to consider convictions “only to the extent to which they relate to the applicant’s suitability for employment in the position for which he [or she] has applied.” 18 Pa.C.S. § 9125.

5. Plaintiff, who has old convictions and who was denied entry-level employment based on Walmart’s policy, brings this action on behalf of himself and a proposed class of all others similarly situated against Walmart for its willful violation of CHRIA. Through this lawsuit, Plaintiff will show that the conduct outlined in his Complaint violates the stated public policy of the Commonwealth of Pennsylvania to remove barriers to employment for persons who have paid the penalty for any crimes they may have committed.

6. Plaintiff seeks injunctive and declaratory relief; actual, real and/or statutory damages; exemplary and punitive damages; pre-judgment and post-judgment interest; and reasonable attorneys' fees, costs, and expenses associated with this action. *See* 18 Pa.C.S. § 9183.

PARTIES

Plaintiff Johnson

7. Plaintiff Johnson is currently a resident of Morton, Pennsylvania.

8. Plaintiff Johnson had at the time of his application to Walmart for employment, and continues to have, three felony drug convictions and one misdemeanor conviction, with the most recent conviction having occurred 16 years prior.

9. Plaintiff and the proposed Class Members he seeks to represent are employment applicants and persons aggrieved for the purposes of CHRIA.

Defendant Walmart Inc. ("Walmart")

10. Walmart is a purveyor of all manner of goods through a robust online presence and brick and mortar locations worldwide. It is headquartered in Bentonville, Arkansas, and has a significant presence in Pennsylvania.

11. Walmart has approximately 160 retail stores and 7 distribution centers in Pennsylvania.

12. Walmart employs over 55,000 hourly field associates in Pennsylvania.

13. At all relevant times, Walmart has been an "employer" and a "person" and/or an "organization" for purposes of CHRIA.

14. At all relevant times, Walmart has been aware of the requirements of CHRIA and yet has disregarded those requirements.

JURISDICTION AND VENUE

15. This Court has jurisdiction pursuant to 42 Pa.C.S. § 931(a).

16. Venue is proper in this Court under Pa. R.C.P. 2179 because a transaction or occurrence giving rise to Plaintiff’s cause of action took place in Delaware County, Plaintiff sought to work in Delaware County, and Defendant regularly does business in this County.

STATUTORY BACKGROUND

17. In Pennsylvania, “every citizen has an inalienable right to engage in lawful employment.” *Sec’y of Revenue v. John’s Vending Corp.*, 453 Pa. 488, 493 (1973).

18. Moreover, Pennsylvania has a “deeply ingrained public policy . . . to avoid unwarranted stigmatization of and unreasonable restrictions upon” individuals with criminal records. *Id.* at 492.

19. CHRIA is an expression of Pennsylvania’s strong public policy in the employment sphere.

20. It provides that, “[f]elony and misdemeanor convictions may be considered by the employer *only* to the extent to which they relate to the applicant’s suitability for employment in the position for which he has applied.” 18 Pa.C.S. § 9125(b) (emphasis supplied).

21. Denying employment to applicants with old and unrelated convictions undermines and violates CHRIA.

22. It is an unwarranted stigmatization and unreasonable restriction on the economic opportunities of vulnerable populations, impacting countless Pennsylvania residents.

23. The use of such arbitrary pre-employment bans also furthers stigmatization on the basis of race, ethnicity, color, and national origin because it imports the racial and ethnic

disparities in the criminal justice system into the employment application process (even though this disparate impact is not the direct target of this lawsuit).

STATEMENT OF FACTS

Plaintiff Edwin Johnson

24. On or about March 21, 2020, Mr. Johnson applied online to work for Walmart in an entry-level stocking position that did not require any prior technical training, qualifications, or certifications. The job also did not require any higher education.

25. Roughly one month later, on April 29, 2020, Mr. Johnson successfully interviewed at a Walmart store located in Eddystone, Pennsylvania, which is in Delaware County. Walmart offered Mr. Johnson employment on the spot, which Mr. Johnson accepted.

26. After Mr. Johnson accepted the offer of employment, he was required to consent to a background check that First Advantage would perform, and completed the forms necessary to do so.

27. On or about April 30, 2020, Mr. Johnson received an email from First Advantage, on behalf of Walmart, with the subject line “URGENT Request for Information – Your WALMART INC Background Screening.”

28. Later that day, Mr. Johnson responded by submitting the required information to First Advantage through the provided website link.

29. Mr. Johnson was scheduled for and attended a Walmart orientation on May 7, 2020. At that orientation, he was informed that his background check had cleared and he could start working for Walmart that day. In reliance on this assurance, Mr. Johnson gave two weeks’ notice to his then-employer.

30. On or about May 12, 2020, Mr. Johnson received a phone call from a female Walmart Human Resources employee, who told Mr. Johnson that he was ineligible to be hired because of his criminal history. Though Mr. Johnson asked the Walmart employee why specifically he was being denied employment, she responded that she could not tell him the details other than that “something came back” as to his criminal history (or words to that effect). The Walmart Human Resources employee provided a phone number for First Advantage, which also just told Mr. Johnson that “something” was on his background check without any additional information.

31. Despite being denied employment on or about May 12, 2020, Mr. Johnson did not receive a copy of the information that Walmart used to deny him employment until August 12, 2020, after he had requested a copy of his background check report from First Advantage. The letter attached to the report was dated May 4, 2020, which is the same date that appeared on his background check report.

32. Walmart denied Mr. Johnson employment despite the time that had passed since his most recent conviction and strong evidence of subsequent rehabilitation in the form of relevant job experience. For example, Mr. Johnson had previously worked at a wholesale supermarket from approximately August 2007 to May 2016, an arts and crafts store from approximately August 2016 to January 2020, and was working at a chain grocery store from June 2019 until he gave his notice as a result of the Walmart offer of employment.

33. Mr. Johnson’s criminal history was not relevant to the entry-level stocking position for which he applied for reasons including the nature of the convictions, the age of the convictions, his employment history, and the years Mr. Johnson has spent contributing positively to the community without any further convictions.

34. On or about September 22, 2020, Mr. Johnson timely dual-filed a charge of discrimination with the U.S. Equal Employment Opportunity Commission (“EEOC”) and Pennsylvania Human Relations Commission challenging Walmart’s criminal background check policy. Mr. Johnson received his Right to Sue letter dated July 23, 2021.

Factual Allegations Common to All Class Members

Walmart Uses a Uniform and Centrally Administered Criminal History Screening Policy That Is Devoid of Individualized Analysis and Fails to Account for Evidence of Rehabilitation or Mitigating Circumstances.

35. Walmart employs an overbroad criminal history screening policy that is devoid of individualized analysis.

36. Pursuant to Walmart’s policy, a select, limited group of Walmart employees located at its corporate headquarters evaluate applicant criminal history, employing a uniform and centrally administered process.

37. An applicant’s potential supervisors, and the individuals who interview an applicant, have no input whatsoever as to whether Walmart will disqualify an applicant because of their criminal history.

38. In fact, pursuant to policy, Walmart will discipline or even terminate an employee for discussing an applicant’s criminal history.

39. While Walmart purports to solicit evidence of rehabilitation or mitigating circumstances to consider as part of its criminal history review, the company lacks sufficient processes to meaningfully account for this information.

40. To the contrary, upon information and belief, Walmart’s standard operating procedure is that it typically will not alter a determination that criminal history is disqualifying because of evidence of rehabilitation or mitigating circumstances.

41. For example, Walmart failed to properly consider the evidence of rehabilitation provided by Mr. Johnson, including his more than 13 years as a productive member of society without a conviction.

Walmart's Criminal History Screening Policy Renders Persons Ineligible for Employment for Convictions That Do Not Relate to Suitability for Employment.

42. Walmart's policy and practice of denying employment to individuals with criminal convictions is far too over-inclusive to meet the standards of CHRIA.

43. Having a conviction is not an accurate proxy for determining whether an applicant would be able to perform the duties of the job. Upon information and belief, no reliable studies or empirical data suggest that applicants with criminal records are more likely to engage in terminable offenses.¹

44. Walmart has not put into place valid systems to accurately assess evidence of rehabilitation and mitigation, especially as to work history and time since last convictions, which social science establishes are some of the best markers of rehabilitation.

45. Highlighting that Walmart's criminal history screening policy does not accurately account for whether an applicant's criminal history establishes non-suitability for a particular position, Walmart does not consider input from relevant supervisors as part of its analysis of whether a conviction is job-related, or actually assess an applicant's evidence of mitigation or rehabilitation.

46. Walmart also routinely hires individuals, and allows them to start working, before completing a full criminal history background check, illustrating that Walmart itself does not

¹ See, e.g., Ian B. Petersen, *Toward True Fair-Chance Hiring: Balancing Stakeholder Interests and Reality in Regulating Criminal Background Checks*, 94 Tex. L. Rev. 175, 187-88 (2015).

view its criminal history screening process as necessary to protect the safety of its workforce or customers.

47. Walmart knew or should have known its obligations under CHRIA, namely to limit use of criminal records only to those situations where criminal conviction histories in fact established non-suitability for a particular position. These obligations are well-established by the plain language of CHRIA and in longstanding case law.

48. Walmart showed reckless disregard or indifference to its obligations under the law.

49. Upon information and belief, Walmart has not validated its criminal history policies and practices consistent with the Uniform Guidelines on Employee Selection Procedures.

50. Through its actions, Walmart has acted willfully in violating the requirements of CHRIA.

CLASS ACTION ALLEGATIONS

51. Plaintiff brings this case as a “class action” within the scope and meaning of Pa.R.C.P. 1701(a) on behalf of a Class defined as follows:

All applicants for employment with Walmart in Pennsylvania during the applicable statute of limitations period through the date of final judgment who were denied employment at Walmart based in whole or in part on their criminal history.²

52. The members of the Class are collectively referred to as “Class Members.”

53. Plaintiff reserves the right to amend the definition of above-defined Class based on discovery or legal developments.

² For the avoidance of doubt, this definition includes individuals Walmart denied for purportedly failing to fully or precisely self-disclose their criminal history.

54. Numerosity: The Class Members identified herein are so numerous that joinder of all members is impracticable. Walmart employs over 55,000 people in Pennsylvania. Although Plaintiff does not know the precise number of job applicants harmed by Walmart's violations of CHRIA, the number is far greater than feasibly could be addressed through joinder. The precise number is also uniquely within Defendant's possession and the Class Members may be notified of the pendency of this action by published and/or mailed notice. Accordingly, the Class satisfies the numerosity standard as the Class is so numerous that joinder of all Class Members in a single action is impracticable. Pa.R.C.P. 1702(1).

55. Commonality: There are questions of law and fact common to Class Members, and these questions predominate over any questions affecting only individual members.

Common legal and factual questions include, among others:

- a. whether Defendant violated CHRIA by denying employment to Plaintiff and the Class based on their criminal convictions;
- b. whether Defendant was willful in its noncompliance with the requirements of CHRIA; and
- c. whether equitable remedies, injunctive relief, actual damages, statutory damages, compensatory damages, exemplary damages and punitive damages for Class Members are warranted.

56. Typicality: Plaintiff is a member of the Class he seeks to represent. Walmart denied employment to Plaintiff based on his criminal history without those criminal convictions being related to Plaintiff's suitability for employment in the position for which he applied, violating CHRIA.

57. Plaintiff's claims are typical of the claims of the Class he seeks to represent.

Upon information and belief, it is Walmart's standard practice to consider convictions that do not relate to applicants' suitability for employment when making hiring determinations for employment. Plaintiff is entitled to relief under the same causes of action as other Class Members. Pa.R.C.P. 1702(3).

58. Adequacy: Plaintiff will fairly and adequately represent and protect the interests of the Class Members pursuant to Pa.R.C.P. 1702(4) & 1709 because his interests coincide with, and are not antagonistic to, the interests of the Class Members he seeks to represent. Plaintiff has retained Counsel who are competent and experienced in complex class actions, including litigation pertaining to criminal background checks and other employment litigation, and the intersection thereof. There is no conflict between Plaintiffs and the Class Members. Pa.R.C.P. 1702(4), 1709.

59. Fair and Efficient Method of Adjudication. The size of the Class and the difficulties likely to be encountered in the management of the action as a class action are reasonable and not excessive to the point where they impair the economies of scale inherent in representative actions. Pa.R.C.P. 1702(5), 1708(a)(2).

79. Due to the size of the Class, prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications that would confront Defendant with incompatible standards of conduct and adjudications with respect to individual members of the Class that would as a practical matter be dispositive of the interests of other members not parties to the adjudications or substantially impair or impede their ability to protect their interests. Pa.R.C.P. 1708(a)(3).

80. To Plaintiff's knowledge, and after a good-faith search of court records, no other litigation has already been commenced in Pennsylvania by or against members of the Class involving the CHRIA. Pa.R.C.P. 1708(a)(4).

81. This particular forum is appropriate for the litigation of the claims of the entire Class because the same Pennsylvania law applies to all class members. Pa.R.C.P. 1708(a)(5).

82. The amount of each Class Member's individual claim is also small compared to the expense and burden of individual prosecution of this litigation. The propriety and amount of exemplary and punitive damages are based on Defendant's conduct, making these issues common to Class Members. Pa.R.C.P. 1708(a)(6) and (a)(7).

83. Class certification is appropriate because Walmart has acted and/or refused to act on grounds generally applicable to the Class Members, making declaratory and injunctive relief appropriate with respect to Plaintiff and the Class Members as a whole. The Class Members are entitled to injunctive relief to end Defendant's common, uniform, unfair discriminatory – and illegal – policies and practices.

60. Class certification is also appropriate as to an issue class focused on Walmart's liability.

61. Plaintiff intends to send notice to all members of the Class Members to the extent required by Pa.R.C.P. 1712. The names and addresses of the class members are available from Defendant's records.

CAUSE OF ACTION

Violation of CHRIA's Use of Information Provision 18 Pa. Cons. Stat. Ann. § 9125 (On Behalf of Plaintiff and the Class)

62. Plaintiff incorporates by reference the allegations in all preceding paragraphs.

63. Plaintiff brings this claim on his own behalf and on behalf of the Class.

64. Plaintiff and the Class Members have convictions that Walmart considered when deciding not to offer them employment.

65. Plaintiff's and the Class Members' convictions are not related to their suitability for employment.

66. Plaintiff and the Class Members have been aggrieved by Walmart's denials of employment.

67. Rather than making assessments of what crimes related to the suitability of applicants for particular jobs, Walmart applies an overbroad criminal history screen that fails to actually assess whether an applicant's convictions are job-related – including by failing to account for evidence of rehabilitation or mitigating circumstances.

68. As a result of the denials of employment, and the manner in which those denials occur, Plaintiff alleges that Walmart rejects applicants with criminal records, whether or not they were job related or stale, denying job opportunities to those with criminal records to the detriment of Plaintiff and the Class.

69. Walmart's actions in denying employment to Plaintiff and Class members showed reckless disregard or indifference to its obligations under the law.

70. As a result of its actions, Walmart is liable to Plaintiff and the Class Members for injunctive relief, damages and reasonable costs of litigation, and attorneys' fees, pursuant to 18 Pa.C.S. § 9183(a)-(b).

71. Walmart's conduct has been willful, rendering it liable for exemplary and punitive damages, pursuant to 18 Pa.C.S. § 9183(b).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff and Class Members pray for relief as follows:

- a. A declaratory judgment that the practices complained of herein are unlawful and violate CHRIA and that Walmart acted willfully under CHRIA;
- b. An order enjoining Walmart and all officers, agents, successors, employees, representatives, and any and all persons acting in concert with them, from engaging in each of the unlawful policies, practices, customs, and usages set forth herein;
- c. Certification of the case as a class action under Pa.R.C.P. 1708;
- d. Designation of Plaintiff as a representative of the Class Members;
- e. Designation of Plaintiff's counsel of record as Class Counsel;
- f. Issuance of proper notice to the Class at Walmart's expense;
- g. An award of all statutory damages provided by CHRIA, including actual and real damages for each violation, and exemplary and punitive damages for each violation found to be willful;
- h. An award of costs incurred herein, including reasonable attorneys' fees to the extent allowable by law;
- i. Pre-judgment and post-judgment interest, as provided by law;
- j. Payment of a reasonable service award to Plaintiff in recognition of the services he has rendered and will continue to render to the Class Members, and the risks he has taken and will take; and
- k. Such other and further legal and equitable relief as this Court deems necessary, just and proper.

JURY TRIAL

Plaintiff hereby requests a trial by jury of all issues triable by jury.

Dated: October 21, 2021

Respectfully submitted,

By: /s/ Deirdre Aaron
OUTTEN & GOLDEN LLP
Deirdre Aaron (PA Bar No. 323389)
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Christopher M. McNerney*
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Email: om@outtengolden.com
Email: cmcnerney@outtengolden.com

Pooja Shethji*
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YOUTH REPRESENT
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Shomari Ward*
Jessica Lopez*
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Telephone: (646) 759-8080
Email: mpope@youthrepresent.org
Email: sward@youthrepresent.org
Email: jlopez@youthrepresent.org

* *Pro hac vice* motion forthcoming

*Attorneys for Plaintiff Edwin Johnson and the
Putative Class*

VERIFICATION

I, Edwin Johnson, hereby state that I am the Plaintiff in this action, that I have read the foregoing Complaint, and that the allegations contained therein are true and correct to the best of my knowledge, information, and belief.

I understand that the statements in this Verification are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Dated: October 21, 2021



Edwin Johnson

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Dated: October 21, 2021

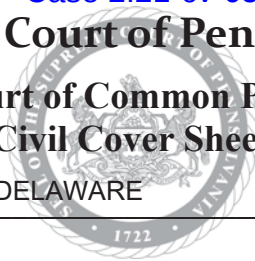
/s/ Deirdre Aaron
Deirdre Aaron (PA Bar No. 323389)

Supreme Court of Pennsylvania

Court of Common Pleas Civil Cover Sheet

DELAWARE

County



For Prothonotary Use Only:

Docket No:

TIME STAMP

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:

- Complaint
- Writ of Summons
- Petition
- Transfer from Another Jurisdiction
- Declaration of Taking

Lead Plaintiff's Name:
EDWIN JOHNSON

Lead Defendant's Name:
WALMART INC.

Are money damages requested? Yes No

Dollar Amount Requested: within arbitration limits
 outside arbitration limits (check one)

Is this a *Class Action Suit*? Yes No

Is this an *MDJ Appeal*? Yes No

Name of Plaintiff/Appellant's Attorney: Deirdre Aaron, Attorney for Plaintiff

Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- Intentional
- Malicious Prosecution
- Motor Vehicle
- Nuisance
- Premises Liability
- Product Liability (does not include mass tort)
- Slander/Libel/ Defamation
- Other: _____

CONTRACT (do not include Judgments)

- Buyer Plaintiff
- Debt Collection: Credit Card
- Debt Collection: Other _____
- Employment Dispute: Discrimination
- Employment Dispute: Other Criminal History Record Information Act (CHRIA) _____
- Other: _____

CIVIL APPEALS

- Administrative Agencies
- Board of Assessment
- Board of Elections
- Dept. of Transportation
- Statutory Appeal: Other _____
- Zoning Board
- Other: _____

MASS TORT

- Asbestos
- Tobacco
- Toxic Tort - DES
- Toxic Tort - Implant
- Toxic Waste
- Other: _____

REAL PROPERTY

- Ejectment
- Eminent Domain/Condemnation
- Ground Rent
- Landlord/Tenant Dispute
- Mortgage Foreclosure: Residential
- Mortgage Foreclosure: Commercial
- Partition
- Quiet Title
- Other: _____

MISCELLANEOUS

- Common Law/Statutory Arbitration
- Declaratory Judgment
- Mandamus
- Non-Domestic Relations Restraining Order
- Quo Warranto
- Replevin
- Other: _____

PROFESSIONAL LIABILITY

- Dental
- Legal
- Medical
- Other Professional: _____

FILED

10-22-2021 02:33 PM

COURT REPORTER DEPARTMENT
DELAWARE COUNTY, PA



Delaware County Court of Common Pleas

201 W Front Street
Media PA 19063

Case # CV-2021-008818
Case Title Johnson v. Walmart Inc.

| | | | |
|------------------|---------------|---------------------|---------------------|
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| Payor | Deirdre Aaron | Cashier | EC |
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| | | | \$297.25 | \$0.00 |

| Balances | | |
|-----------------|--------|---------------|
| Due From | Case # | Balance |
| | | \$0.00 |

Payor

Deirdre Aaron CV-2021-008818

MARK A. SERENI, ESQUIRE
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LISANNE L. MIKULA, ESQUIRE
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LAURIE A. MCCARTHY, ESQUIRE
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21 West Front Street
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(610) 565-5700

Co-Counsel for Plaintiff Edwin Johnson
and the Putative Class

| | |
|--|---------------------------|
| IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA | |
| CIVIL ACTION – CLASS ACTION | |
| EDWIN JOHNSON, on behalf of himself and all others similarly situated Plaintiff | No. CV-2021-008818 |
| v. WALMART INC. Defendant | |

ENTRY OF APPEARANCE AS CO-COUNSEL

TO THE OFFICE OF JUDICIAL SUPPORT:

Kindly enter our appearances as co-counsel for Plaintiff Edwin Johnson and the Putative Class in the above class action.

DATED: November 4, 2021

**BY: /s/ Mark A. Sereni
MARK A. SERENI, ESQUIRE**

DATED: November 4, 2021

**BY: /s/ Lianne L. Mikula
LISANNE L. MIKULA, ESQUIRE**

DATED: November 4, 2021

**BY: /s/ Laurie A. McCarthy
LAURIE A. MCCARTHY, ESQUIRE**

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Co-Counsel for Plaintiff Edwin Johnson
and the Putative Class

| | |
|--|---------------------------|
| IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA CIVIL ACTION – CLASS ACTION | |
| EDWIN JOHNSON, on behalf of himself and all others similarly situated Plaintiff | No. CV-2021-008818 |
| v. WALMART INC. Defendant | |

PLAINTIFF’S PRAECIPE FOR JURY TRIAL DEMAND

Plaintiff Edwin Johnson and the Putative Class hereby demand a trial by jury of twelve (12) jurors.

Dated: November 5, 2021

/s/ Mark A. Sereni
MARK A. SERENI, ESQ.
ATTORNEY I.D. #50090
LISANNE L. MIKULA, ESQ.
ATTORNEY I.D. # 59146
LAURIE A. McCARTHY, ESQ.
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*Co-Counsel for Plaintiff Edwin Johnson
and the Putative Class*

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* *Pro hac vice* motion forthcoming

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Email: lmccarthy@dioriosereni.com

**IN THE COURT OF COMMON PLEAS OF
DELAWARE COUNTY, PENNSYLVANIA**

EDWIN JOHNSON, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

WALMART INC.,

Defendant.

CIVIL DIVISION

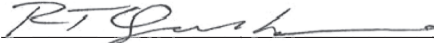
CLASS ACTION

No. CV-2021-008818

ACCEPTANCE OF SERVICE

I accept service of the Complaint on behalf of Walmart Inc. and certify that I am authorized to do so.

Dated: November 22, 2021


Robert T. Quackenboss
rquackenboss@HuntonAK.com
HUNTON ANDREWS KURTH LLP
2200 Pennsylvania Ave., NW
Washington, DC 20037
Tel: (202) 955-1950

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing **ACCEPTANCE OF SERVICE** was sent, via electronic filing and First Class U.S. mail, on this 24th day of November, 2021, to the following:

OUTTEN & GOLDEN LLP

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Email: cmcnerney@outtengolden.com

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* *Pro hac vice* motion forthcoming

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Email: lmikula@dioriosereni.com
Email: lmccarthy@dioriosereni.com

Dated: November 24, 2021

/s/ Thomas R. Waskom

Thomas R. Waskom



Delaware County Court of Common Pleas

201 W Front Street
Media PA 19063

Case # CV-2021-008818

Case Title Johnson v. Walmart Inc.

Receipt # 000441131

Receipt Date 11-24-2021 04:49 PM

Payor Thomas Waskom

Cashier EC

Receipted \$50.00

Change Due \$0.00

Payment Methods

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Fees

| Name | Assessment # | Case # | Payment | Balance |
|-----------------------------------|--------------|----------------|----------------|---------------|
| Entry of Appearance for Defendant | 647572 | CV-2021-008818 | \$50.00 | \$0.00 |
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Balances

| Due From | Case # | Balance |
|----------|--------|---------------|
| | | \$0.00 |

Payor

Thomas Waskom CV-2021-008818

In the Court of Common Pleas of Delaware County, Penna.

NO. _____

vs.

PRAECIPE FOR APPEARANCE

To the Office of Judicial Support, Court of Common Pleas of Delaware County:

Please enter my appearance for the Defendant _____ in the
print name
above entitled proceeding.

Name

Address

City, State, Zip

E-mail

Phone#

Fax #

Attorney ID #

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing **PRAECIPE FOR APPEARANCE** was sent, via electronic filing and First Class U.S. mail, on this 24th day of November, 2021, to the following:

OUTTEN & GOLDEN LLP

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* *Pro hac vice* motion forthcoming

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Email: mas@dioriosereni.com
Email: lmikula@dioriosereni.com
Email: lmccarthy@dioriosereni.com

Dated: November 24, 2021

/s/ Thomas R. Waskom

Thomas R. Waskom

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

Edwin Johnson, on behalf of himself and all others similarly situated

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

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

See attachment.

DEFENDANTS

Walmart 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)

See attachment.

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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, 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)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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 - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. § 1332(d) ("Class Action Fairness Act")

Brief description of cause: Alleged violations of Pennsylvania's Criminal History Records Information Act in criminal background check used in Walmart's hiring process

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ Amount not specified CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

December 8, 2021 /s/ Thomas R. Waskom

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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 there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

| | | |
|---|---|-------------------------|
| EDWIN JOHNSON, on behalf of | : | |
| himself and all others similarly situated, | : | |
| | : | |
| Plaintiff, | : | |
| | : | CIVIL ACTION NO.: _____ |
| v. | : | |
| | : | |
| WALMART INC., | : | |
| | : | |
| Defendant. | : | |
| | : | |

Attachment to Civil Cover Sheet (JS 44)

Addresses for Plaintiff’s Counsel:

OUTTEN & GOLDEN LLP
685 Third Avenue, 25th Floor
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601 Massachusetts Avenue NW, Suite 200W
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[Remainder of page left intentionally blank.]

Addresses for Defense Counsel:

HUNTON ANDREWS KURTH LLP
2200 Pennsylvania Ave., NW
Washington, DC 20037
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951 E. Byrd Street
Richmond, VA 23219
Telephone: (804) 788-8403

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: Plaintiff is a resident of Morton, Pennsylvania.

Address of Defendant: Defendant's principal place of business is located at 702 Southwest 8th Street Mail Stop #0215 Bentonville, AR 72716.

Place of Accident, Incident or Transaction: Plaintiff's claims involve a Walmart location in Eddystone, PA.

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 12/08/2021 _____ /s/ Thomas R. Waskom _____ Pa. Bar No. 321664
 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
- 2. FELA
- 3. Jones Act-Personal Injury
- 4. Antitrust
- 5. Patent
- 6. Labor-Management Relations
- 7. Civil Rights
- 8. Habeas Corpus
- 9. Securities Act(s) Cases
- 10. Social Security Review Cases
- 11. All other Federal Question Cases
(Please specify): _____

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
- 2. Airplane Personal Injury
- 3. Assault, Defamation
- 4. Marine Personal Injury
- 5. Motor Vehicle Personal Injury
- 6. Other Personal Injury (Please specify): _____
- 7. Products Liability
- 8. Products Liability – Asbestos
- 9. All other Diversity Cases
(Please specify): Class Action Fairness Act Removal

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Thomas R. Waskom, counsel of record or pro se plaintiff, do hereby certify:

Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

Relief other than monetary damages is sought.

DATE: 12/08/2021 _____ /s/ Thomas R. Waskom _____ Pa. Bar No. 321664
 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Alleges Walmart Has Unlawfully Denied Employment Based on Criminal History](#)
