

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA  
PITTSBURGH DIVISION**

<p><b>CHAD KAPOLKA AND BRETT TURRENTINE, Individually and on behalf of all Others Similarly Situated,</b></p> <p><b>Plaintiffs,</b> vs.</p> <p><b>ANCHOR DRILLING FLUIDS, USA, LLC and Q'MAX AMERICA INC.,</b></p> <p><b>Defendants</b></p>	§ § § § § § § § § § §	<p>Civil Action No. <u>2:18-cv-1007</u></p> <p style="text-align: center;"><b>JURY TRIAL DEMANDED</b></p> <p style="text-align: center;"><b>CLASS/COLLECTIVE ACTION SERVICES, LLC PURSUANT TO 29 U.S.C. § 216(b) FED. R. CIV. P. 23</b></p>
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**PLAINTIFFS' CLASS AND COLLECTIVE ACTION COMPLAINT**

**SUMMARY**

1. Plaintiffs Chad Kapolka and Brett Turrentine bring this lawsuit to recover for retaliation, unpaid overtime wages, and other damages under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”); the Pennsylvania Minimum Wage Act (“PMWA”), 43 Pa. Stat. Ann. § 333.104; as well as the Ohio Minimum Fair Wage Standards Act, O.R.C. §§4111 *et seq.*, (“the Ohio Wage Act”), and the Ohio Prompt Pay Act (“OPPA”), Ohio Rev. Code §4113.15 (collectively, “the Ohio wage laws”) against Defendants Anchor Drilling Fluids, USA LLC and Q’Max America, Inc. (collectively, “Anchor” or “Defendants”).

2. Defendants employ Solids Control Operators to operate and maintain solids control equipment such as centrifuges, shakers, filtration systems and de-watering units.

3. Defendants treat some of its Solids Control Operators as independent contractors or consultants.

4. Defendants pay their Solids Control Operators performing services as independent

contractors or consultants like Plaintiffs a set amount per day, regardless of the number of hours worked

5. Defendants require their Solids Control Operators performing services as independent contractors or consultants to work substantial overtime without overtime compensation.

6. Plaintiffs and all other similarly situated Solids Control Operators performing services as independent contractors or consultants worked at least 12 hours a day and 84 hours or more hours a week.

7. Regardless of the number of hours worked each week, Plaintiffs and all other similarly situated Solids Control Operators performing services as independent contractors or consultants never received overtime pay for work performed in excess of 40 hours in a week.

8. This class and collective action alleges that Defendants misclassified Plaintiffs and all other similarly situated Solids Control Operators performing services as independent contractors or consultants as independent contractors to evade the overtime requirements of the FLSA, PMWA and the Ohio wage laws.

#### **JURISDICTION AND VENUE**

9. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because this action involves a federal question under the FLSA. 29 U.S.C. § 216(b).

10. The Court has federal jurisdiction over this action pursuant to the jurisdictional provisions of the Class Action Fairness Act, 28 U.S.C. §1332(d). The Court also has supplemental jurisdiction over any state law sub-class pursuant to 28 U.S.C. §1367.

11. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (c) because a substantial part of the events or omissions giving rise to the claim occurred in this District and Division.

**THE PARTIES**

12. Plaintiff Chad Kapolka worked exclusively for Defendants as a Solids Control Operator. Throughout his employment with Defendants, he was paid a day-rate with no overtime compensation and was classified as an independent contractor. Kapolka's written consent has been attached as Ex. A.

13. Plaintiff Brett Turrentine worked exclusively for Defendants as a Solids Control Operator. Throughout his employment with Defendants, he was paid a day-rate with no overtime compensation and was classified as an independent contractor. Turrentine's written consent has been attached as Ex. B.

14. Plaintiffs bring this action on behalf of themselves and all other similarly situated Solids Control Operators who were classified as independent contractors and paid by Anchor's day-rate system. Defendants paid each of these workers a flat amount for each day worked and failed to pay them overtime for all hours that they worked in excess of 40 hours in a workweek in accordance with the FLSA, Ohio Wage Acts, and PMWA.

15. The class of similarly situated employees or putative class members sought to be certified is defined as follows:

**ALL CURRENT AND FORMER SOLIDS CONTROL OPERATORS WHO WERE CLASSIFIED AS INDEPENDENT CONTRACTORS AND PAID A DAY-RATE DURING THE LAST THREE (3) YEARS.** ("Putative Class Members")

16. Kapolka also seeks class certification of such a class under FED. R. CIV. P. 23 under the PMWA.

17. Turrentine also seeks class certification of such a class under FED. R. CIV. P. 23 under the Ohio Wage Acts.

18. Anchor may be served with process at **Corporation Service Company, 2595**

**Interstate Drive, Suite 103, Harrisburg, Pa. 17110.**

19. Q'Max may be served with process at **Corporation Service Company, 1700 Katy Freeway, Suite 200, Houston, TX 77079.**

#### **COVERAGE UNDER THE FLSA**

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

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

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

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

24. As will be shown through this litigation, Defendants treated Plaintiffs (and indeed all of its workers that it classified as independent contractors and paid a daily rate to without overtime compensation) as employees and uniformly dictated the pay practices of Plaintiffs' and its other workers including its so-called "independent contractors".

25. Defendants misclassification of Plaintiffs as independent contractors does not alter their status as employees for purposes of the FLSA, Ohio Wage Acts, or the PMWA.

## FACTS

26. Defendants are an oil and natural gas service company operating throughout the United States, including Ohio and Pennsylvania. To complete their business objectives, Defendants hire personnel to perform solids control services.

27. Many of these individuals worked for Defendants on a day-rate basis, were misclassified as independent contractors, and make up the proposed Putative Class. While exact job titles and job duties may differ, these employees are subjected to the same or similar illegal pay practices for similar work.

28. Defendant classified all its Solids Control Operators as independent contractors and paid them a flat sum for each day worked, regardless of the number of hours that they worked that day (or in that workweek) and failed to provide them with overtime pay for hours that they worked in excess of forty (40) hours in a workweek.

29. As Solids Control Operators, Plaintiffs' primary job duties included operating oilfield equipment such as shakers and centrifuges, rigging up and rigging down equipment, coordinating and separating drilling fluids and solids within defined specifications and recycling mud products. Plaintiffs worked in excess of 40 hours each week while employed by Defendants, often for weeks at time.

30. The work Plaintiffs performed was an essential and integral part of Defendants' core business.

31. During Plaintiffs' employment with Defendants while they were classified as an independent contractor, Defendants exercised control over all aspects of their job.

32. Defendants did not require any substantial investment by Plaintiffs for them to perform the work required of them.

33. Defendants determined Plaintiffs' opportunity for profit and loss. Plaintiffs were not required to possess any unique or specialized skillset (other than that maintained by all other employees in their respective position) to perform their job duties.

34. Defendants and its clients controlled all the significant or meaningful aspects of the job duties performed by Plaintiffs.

35. Defendants and its clients determined the hours and locations Plaintiffs worked, tools used, and rates of pay received.

36. Even though Plaintiffs often worked away from Defendants' offices without the presence of a direct supervisor employed by Defendants, Defendants still controlled all aspects of Plaintiffs' job activities by enforcing mandatory compliance with Defendants' and its client's policies and procedures.

37. No real investment was required of Plaintiffs to perform their jobs.

38. More often than not, Plaintiffs utilized equipment provided by Defendants and/or its clients to perform their job duties. Plaintiffs did not provide the equipment they worked with on a daily basis.

39. Defendants and/or its clients made the large capital investments in buildings, machines, equipment, tools, and supplied in the business in which Plaintiffs worked.

40. Plaintiffs did not incur operating expenses like rent, payroll, marketing, and insurance.

41. Plaintiffs were economically dependent on Defendants during their employment.

42. Defendants set Plaintiffs' rates of pay, their work schedules, and prohibited them from working other jobs for other companies while they were working on jobs for Defendants.

43. Defendants directly determined Plaintiffs' opportunity for profit and loss. Plaintiffs' earning opportunities were based on the number of days Defendants scheduled them to work.

44. Very little skill, training, or initiative was required of Plaintiffs to perform their job duties. Indeed, the daily and weekly activities of the Putative Class Members were routine and largely governed by standardized plans, procedures, and checklists created by Defendants and/or its clients. Virtually every job function was pre-determined by Defendants and/or its clients, including the tools to use at a job site, the data to compile, the schedule of work, and related work duties. The Putative Class Members were prohibited from varying their job duties outside of the pre-determined parameters.

45. Moreover, the job functions of the Putative Class Members were primarily manual labor/technical in nature, requiring little to no official training, much less a college education or other advanced degree.

46. The Putative Class Members did not have any supervisory or management duties.

47. Plaintiffs were not employed by Defendants on a project-by-project basis. In fact, while Plaintiffs were classified as independent contractors, they were regularly on call for Defendants and/or its clients and were expected to drop everything and work whenever needed.

48. All of the Putative Class Members perform the same or similar job duties and are subjected to the same or similar policies and procedures which dictate the day-to-day activities performed by each person.

49. The Putative Class Members also worked similar hours and were denied overtime as a result of the same illegal pay practice.

50. Defendants' policy of failing to pay their independent contractors, including Plaintiffs, overtime violates the FLSA, Ohio Wage Acts, and PMWA because these workers are, for all purposes, employees performing non-exempt job duties.

51. It is undisputed that the contractors are operating oilfield machinery, performing manual labor, and working long hours out in the field.

52. Because Plaintiffs (and Defendants' other independent contractors) were misclassified as independent contractors by Defendants, they should receive overtime for all hours that they worked in excess of 40 hours in each workweek.

53. Defendants day-rate system violates the FLSA, Ohio Wage Acts, and PMWA because Plaintiffs and those similarly situated did not receive any overtime pay for hours worked over 40 hours each week.

#### **FLSA VIOLATIONS**

54. As set forth herein, Defendants have violated, and are violating, Section 7 of the FLSA, 29 U.S.C. § 207, by employing employees 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 their employment in excess of forty (40) hours per week at rates no less than 1 and ½ times the regular rates for which they were employed.

55. Defendants knowingly, willfully, or in reckless disregard carried out this illegal pattern or practice of failing to pay the Putative Class Members overtime compensation. Defendants failure to pay overtime compensation to these employees was neither reasonable, nor was the decision not to pay overtime made in good faith.

56. Accordingly, Plaintiffs and all those who are similarly situated are entitled to overtime wages under the FLSA in an amount equal to 1 and ½ times their rate of pay, plus liquidated damages, attorney's fees and costs.

#### **PMWA VIOLATIONS**

57. Kapolka brings this claim under the PMWA as a Rule 23 class action.

58. The conduct alleged violates the PMWA (43 Pa. Stat. Ann. § 333.104).

59. At all relevant times, Defendants were subject to the requirements of the PMWA.



60. At all relevant times, Defendants employed Kapolka and those individuals with Pennsylvania state law claims as an “employees” within the meaning of the PMWA.

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

62. Defendants have and had a policy and practice of misclassifying Kapolka and each member of the Pennsylvania class as independent contractors and failing to pay these workers overtime for hours worked in excess of 40 hours per workweek.

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

64. Kapolka and each member of the Pennsylvania Class also seek recovery of attorneys’ fees, costs, and expenses of this action, to be paid by Defendants, as provided by the PMWA.

#### **OHIO WAGE ACT VIOLATIONS**

65. Turrentine brings this claim under the Ohio Wage Act as a Rule 23 class action.

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

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

68. At all relevant times, Defendants employed Turrentine and each Class Member with Ohio state law claims as an “employee” within the meaning of the Ohio Wage Act.

69. The Ohio Wage Act requires employers like Defendants to pay employees at one and one-half (1.5) times the regular rate of pay for hours worked in excess of forty (40) hours in any one

week. Turrentine and each member of the Ohio Wage Act Class are entitled to overtime pay under the Ohio Wage Acts.

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

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

72. Turrentine and each member of the Ohio Wage Act Class also seek recovery of attorneys' fees, costs, and expenses of this action, to be paid by Defendants, as provided by the Ohio Wage Act.

#### **CLASS AND COLLECTIVE ACTION ALLEGATIONS**

73. Plaintiffs incorporate all previous paragraphs and alleges that the illegal pay practices Defendants imposed on Plaintiffs were likewise imposed on the Putative Class Members.

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

75. Numerous other individuals who worked with Plaintiffs indicated they were improperly classified as independent contractors, paid in the same manner, performed similar work, and were not properly compensated for all hours worked as required by state and federal wage laws.

76. Based on their experiences and tenure with Defendants, Plaintiffs are aware that Defendants' illegal practices were imposed on the Putative Class Members.

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

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

79. Plaintiffs' experiences are therefore typical of the experiences of the Putative Class Members.

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

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

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

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

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

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

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

- a. Whether Defendants employed the Putative Class Members within the meaning of the applicable state and federal statutes, including the FLSA, Ohio Wage Acts, and PMWA;
- b. Whether the Putative Class Members were improperly misclassified as independent contractors;
- c. Whether Defendants decision to classify the Putative Class Members as independent contractors was made in good faith;
- d. Whether Defendants decision to not pay time and a half for overtime to the Putative Class Members was made in good faith;
- e. Whether Defendants violation of the FLSA, Ohio Wage Acts, and PMWA was willful; and
- f. Whether Defendants illegal pay practices were applied uniformly across the nation to all Putative Class Members.

87. Plaintiffs' claims are typical of the claims of the Putative Class Members. Plaintiffs and the Putative Class Members sustained damages arising out of Defendants illegal and uniform employment policy.

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

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

**JURY DEMAND**

90. Plaintiffs demand a trial by jury.

**RELIEF SOUGHT**

91. WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

- a. An Order designating this lawsuit as a collective action and permitting the issuance of a notice pursuant to 29 U.S.C. § 216(b) to all similarly situated individuals with instructions to permit them to assert timely FLSA claims in this action by filing individual Consents to Sue pursuant to 29 U.S.C. § 216(b);
- b. For an Order pursuant to Section 16(b) of the FLSA finding Defendants liable for unpaid back wages due to Plaintiffs and the Putative Class Members for liquidated damages equal in amount to their unpaid compensation;
- c. For an Order designating the state law classes as class actions pursuant to Fed. R. Civ. P. 23;
- d. For an Order appointing Plaintiffs and their counsel as Class Counsel to represent the interests of the both the federal and state law classes;
- e. For an Order awarding attorneys' fees, costs and pre- and post-judgment interest; and
- f. For an Order granting such other and further relief as may be necessary and appropriate.

Respectfully submitted,

By: /s/Michael A. Josephson

Michael A. Josephson  
Pennsylvania Bar No. 308410  
Andrew Dunlap  
Texas Bar No. 24078444  
*(Pending Pro Hac Vice)*

**JOSEPHSON DUNLAP LAW FIRM**

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**AND**

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**AND**

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**ATTORNEYS IN CHARGE FOR PLAINTIFFS**

# EXHIBIT A

**CONSENT TO JOIN WAGE CLAIM**

Print Name: Chad kapolka

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

Signature:   
Chad Kapolka (Apr 25, 2018)

Date Signed: Apr 25, 2018



# EXHIBIT B

**CONSENT TO JOIN WAGE CLAIM**

Print Name: Brett Turrentine

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

Signature:   
Brett Turrentine (Jul 25, 2018)

Date Signed: Jul 25, 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

CHAD KAPOLKA AND BRETT TURRENTINE, Individually and on behalf of all others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Michael A. Josephson, Josephson Dunlap Law Firm, 11 Greenway Plaza, Ste. 3050, Houston, TX 77046; Tel 713-352-1100

DEFENDANTS

ANCHOR DRILLING FLUIDS, USA, LLC and Q'MAX AMERICA, INC.

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

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

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 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)

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 (specify), 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): 29 U.S.C. § 216(b)
Brief description of cause: Unpaid overtime compensation

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE Arthur J. Schwab DOCKET NUMBER 2:16-cv-01372

DATE 07/27/2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Michael A. Josephson

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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

**PART A**

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

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

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

1.  This case is related to Number \_\_\_\_\_ . Short Caption \_\_\_\_\_
2.  This case is not related to a pending or terminated case.

**DEFINITIONS OF RELATED CASES:**

**CIVIL:** Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit

**EMINENT DOMAIN:** Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

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

**PART C**

**I. CIVIL CATEGORY** (Select the applicable category).

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

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

Date: 07/27/2018

/s/ Michael A. Josephson

ATTORNEY AT LAW

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

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If 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. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Anchor Drilling Fluids USA, Q'Max America Sued for Allegedly Unpaid Overtime Wages](#)

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