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UNITED STATES DISTRICT COURT
DISRICT OF NEW JERSEY

-----X
JUAN CARLOS MERINO and AGUSTIN MOREL, JR.,
individually and on behalf of all others similarly situated,

Plaintiffs,

v.

WELLS FARGO & COMPANY, and
WELLS FARGO BANK, NATIONAL ASSOCIATION,

Defendants.
-----X

Case No.:
CLASS ACTION
JURY DEMAND

INTRODUCTION

Plaintiffs, Juan Carlos Merino and Agustin Morel, Jr., bring this action against their former employer, Defendant Wells Fargo & Company and Wells Fargo Bank, National Association (collectively, “Wells Fargo” or Defendants) for unpaid overtime wages pursuant

to the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”) and the New Jersey Wage and Hour Law, N.J.S.A. 34:12-5634:11-56a4, *et seq.*, and New Jersey Wage and Hour Regulations, N.J.A.C. 12:56-5.1, *et seq.* Plaintiffs bring this case individually on behalf of themselves, as a collective action under the FLSA, and as a class action under the New Jersey Wage and Law on behalf of all persons who (1) work or have worked for Wells Fargo as hourly employees; (2) have been required to meet quarterly quotas for new accounts; (3) have worked more than forty (40) hours per week; and (4) have not paid overtime wages (the “Class”).

PARTIES

1. Plaintiff Juan Carlos Merino is a citizen of New Jersey and resides in Hackensack. From approximately March 2010 through November 2015, Plaintiff Merino worked as an hourly employee at several Wells Fargo bank branches in New Jersey, including the 167 Market Street branch in Paterson, New Jersey, where he worked as a Customer Service Sales Representative and Bank Teller, the 233 Fifth Avenue branch in Paterson, New Jersey, where he worked as a Personal Banker, and the 859 Route 17 Paramus branch where he worked as a Personal Banker. He was paid at a rate of \$15 per hour until approximately February 2013, and paid at a rate of \$20 per hour from February 2013 until November 2015. At each Wells Fargo branch location, Plaintiff Merino was required to meet quarterly quotas for new accounts and was instructed by his managers to use Off Site Sheets in order to solicit new accounts outside of regular bank branch business hours. Indeed, in order to meet the quarterly new account quotas, the Wells Fargo managers knew, or reasonably should have known, that it was necessary for the hourly employees, including Plaintiff Merino, to solicit new accounts outside of regular bank branch business hours. Hourly employees who did not meet their monthly new

account quotas were frequently terminated or demoted. In addition to routinely working a forty (40) hour work week at the Wells Fargo bank branches, Plaintiff Merino spent approximately 15 additional hours per week, every week, outside of normal bank branch business hours soliciting new accounts with the Off Site Sheets. Plaintiff was not paid overtime wages for his off site work.

2. Plaintiff Agustin Morel, Jr., is a citizen of New Jersey and resides in Passaic. From October 2012 until August 2014, Plaintiff Morel worked as a Personal Banker at the Wells Fargo branch located at People's Park, 1008 Madison Avenue, Paterson, New Jersey. Plaintiff Morel was paid at the hourly rate of \$19.23 per hour. Plaintiff Morel was required to meet quarterly quotas for new accounts and was instructed by his managers to use Off Site Sheets in order to solicit new accounts outside of regular bank branch business hours. Indeed, in order to meet the quarterly new account quotas, the Wells Fargo managers knew, or reasonably should have known, that it was necessary for the hourly employees, including Plaintiff Morel, to solicit new accounts outside of regular bank branch business hours. Hourly employees, like Mr. Morel, who did not meet their monthly new account quotas were frequently terminated or demoted. Indeed, in August 2014, Mr. Morel was terminated for failing to meet his new account quota. Mr. Morel's termination occurred approximately one month after he received an unfavorable review from his manager, Felix Ramirez, for failing to meet his quarterly new account numbers for the quarter ended June 30, 2014. During this review in July 2014, Plaintiff Morel complained to his manager that other employees who were meeting their quotas were also falsifying accounts. Within the next month, Mr. Morel was terminated. In addition to routinely working a forty (40) hour work week at the Wells Fargo bank branch, Plaintiff spent approximately 8 additional hours per week, every week, outside of normal bank branch business

hours soliciting new accounts with the Off Site Sheets. Plaintiff was not paid overtime wages.

3. Defendant Wells Fargo and Company is, and at all relevant times has been, a corporation organized and existing under the laws of the State of Delaware with its principal place of business in San Francisco, California. Wells Fargo and Company is a financial services company with approximately \$1.5 trillion in assets. It provides banking, insurance, investments, mortgages, and consumer and commercial finance through more than 9,000 branch locations nationwide. It has approximately 265,000 full time employees.

4. Defendant Wells Fargo Bank, National Association is, and at all relevant times has been, a national banking association chartered under the laws of the United States with its primary place of business in Sioux Falls, South Dakota. Wells Fargo Bank, National Association provides Wells Fargo & Company's personal and commercial banking services and is the principal operating subsidiary of Wells Fargo & Company.

JURISDICTION & VENUE

5. Jurisdiction in this case is based on 28 U.S.C. §§ 1331, 1332 and/or 1337. This action arises under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* Plaintiffs and Defendants are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interests and costs. Jurisdiction over the state law claim is pursuant to 28 U.S.C. §1367.

6. Venue is proper in this Court pursuant to 28 U.S.C. §1391 because Defendants are authorized to conduct business and have conducted substantial business in this district, have intentionally availed themselves of the laws within this district and are subject to personal jurisdiction in this district.

FACTUAL ALLEGATIONS

7. Plaintiffs and other members of the Class are persons who: (1) work or have worked for Wells Fargo as hourly employees; (2) have been required to meet quarterly quotas for new accounts; (3) have worked more than forty (40) hours per week; and (4) have not been paid overtime wages (the “Class”).

8. For years, Wells Fargo has imposed unrealistic quarterly new account sales quotas on its hourly employees. Indeed, it is well known that throughout the country, the Wells Fargo community banking division required its hourly employees to “cross sell,” or to push existing customers to open more accounts with Wells Fargo. Wells Fargo measures cross-selling by the number of products, including accounts and credit and debit cards, which each customer has with Wells Fargo. Wells Fargo’s former Chief Executive Officer and Chairman of the Board of Directors, John G. Stumpf, set the target as eight accounts per customer. Indeed, in the 2010 Annual Report, Mr. Stumpf touted his cross selling target for Wells Fargo employees as “eight is great.” Mr. Stumpf cited Wells Fargo’s cross selling targets as one of the main reasons investors should purchase stock in Wells Fargo. In an April 2012 conference call with investors, Mr. Stumpf stated “We grew our retail banking cross-sell ratio to a record, 5.98 products.” One year later, in April 2013, Mr. Stumpf stated in a conference call with investors “We achieved record retail banking cross- sell of 6.1 products.” In April 2014, Mr. Stumpf stated in a conference call with investors “We achieved record retail banking cross-sell of 6.17 products per household.” In the 2014 Annual Report filed with the Securities and Exchange Commission, Wells Fargo further stated “We believe there is more opportunity for cross-sell as we continue to earn more business from our customers. Our goal is eight products per household. . . .”

9. Mr. Stumpf knew, or reasonably should have known, that his cross-selling target for Wells Fargo employees to solicit eight products per household was unrealistic, especially in light of the well-known fact that competitor banks have on average fewer than three accounts per customer. Nevertheless, senior management in the community banking division of Wells Fargo was instructed nationwide to require their hourly employees to meet these unrealistic cross selling targets. Wells Fargo management thus imposed quarterly new account quotas on all hourly employees and required employees to use of Off Site sheets to solicit new accounts outside of normal bank branch business hours. Wells Fargo management also incentivized employees to meet their quarterly quotas of new accounts with monetary bonus payments ranging from \$400 to \$1,200, and penalizing employees who failed to meet the quotas with demotions or termination. Indeed, Wells Fargo community banking senior management systematically squeezed its employees to the breaking point in order to meet these unrealistic targets in order to enhance the Wells Fargo stock price, which rose approximately \$30 per share during the years during which Wells Fargo imposed the cross-selling quota push.

10. Wells Fargo senior management placed unrelenting pressure on its hourly paid employees to open numerous accounts per customer, often telling the employees, in sum and substance, to “do whatever it takes to reach their quotas” or to “do whatever you have to do” to meet the quotas.

11. Wells Fargo management often referred to the beginning of each quarter as “JUMP” week during which hourly paid employees were required to obtain six to eight new accounts for the first day.

12. However, the quotas imposed by Wells Fargo senior management – as per the requirements of Wells Fargo’s former CEO, were not realistic, and certainly were not attainable

during normal bank branch business hours because there was simply not enough foot traffic by customers on a daily basis at the branches. Thus, employees who did not reach their quotas during normal bank branch business hours uniformly were required by Wells Fargo management to work after hours off the clock without compensation to solicit new accounts.

13. Each day at the end of normal bank branch business hours, Wells Fargo management would circulate “Off Site Sheets” to its hourly paid employees and would instruct the employees to take their “Off Site Sheets” with them after work to solicit new accounts. The “Off Site Sheet” was basically a pre-approved account application which simply needed to be signed by the customer and then scanned by the Wells Fargo banking branch the following business day. In addition to passing out the Off Site Sheets at the end of the day, Wells Fargo management also provided the hourly paid employees with Wells Fargo bags for carrying the Off Site Sheets, paper clips, pens and Wells Fargo brochures when they solicited new customers outside of the bank branches after normal business hours. The Off Site Sheets were maintained on Wells Fargo’s website www.wellsfargo.com/teamworks. Plaintiff Merino and other hourly paid employees at Wells Fargo often referred to the “Off Site Sheets” as their “homework”, because it was something they were required to do every day outside of normal bank branch hours. By name and design, the “Off Site Sheets” show that Wells Fargo management knew that Plaintiffs and the other members of the Class were working several hours each day off site and off the clock outside of the standard forty hour work week at the banking branch.

14. At the beginning of each day, management would collect the Off Site Sheets from Plaintiffs and the other hourly paid employees. Wells Fargo company policy also required District Managers to have a “huddle” with the hourly paid employees each morning during which the hourly employees were required to state the number of “solutions” they were going to

obtain that day. If the employees did not meet their daily target of “solutions” during normal business hours at the bank branch, then they were required to do so off site after normal business hours.

15. Wells Fargo management also pressured Plaintiffs and the other hourly paid employees to solicit friends and family members to sign up for accounts in order to meet their quotas. Much of the “friends and family” solicitations occurred after normal bank branch business hours and at social gatherings. Indeed, some Wells Fargo employees have reported that “they spend holiday dinners trying to convince family members to sign up for accounts.”

16. In accordance with Wells Fargo’s company requirements, Plaintiff Merino routinely worked off site and off the clock approximately 3 hours each day, or approximately 15 hours each week, to solicit new accounts and routinely solicited potential new customers at the gym, at social events, at family gatherings, and through his personal contact lists after normal bank branch business hours. Similarly, Plaintiff Morel worked approximately 8 hours off site every week to solicit new accounts and often solicited potential new customers at the barber shop, the mall, and social gatherings after normal bank branch business hours. Plaintiffs and the other members of the Class, however, were never compensated for the time they spent soliciting and obtaining new accounts for Wells Fargo off site and outside of the normal bank branch business hours.

17. Plaintiffs and the other members of the Class are or were non-salaried, non-exempt employees of Wells Fargo. Indeed, on the rare occasion that either of the Plaintiffs or the other members of the Class worked less than forty hours at the Wells Fargo bank branch in any given week, then they were paid only for the actual hours worked at the Wells Fargo bank branch. They were never compensated for the off site and off the clock work which they were

required to perform by management.

18. Despite knowing that Plaintiff and other Class members were working hours off site in addition to working a forty hour week at the Wells Fargo bank branch, Wells Fargo management never instructed or permitted Plaintiff and the other Class members to enter their off site solicitation time into their weekly hourly reports on Time Tracker. To the contrary, at certain times during his employment with Wells Fargo, Plaintiff Merino was instructed by management to enter only up to, and not in excess of, 40 hours per week in the Time Tracker log.

19. Wells Fargo monitored daily sales quotas nationwide from each bank branch. Wells Fargo required its hourly paid employees to report the number of “solutions”, or new banking accounts and credit or debit cards, obtained at the end of each day. From Monday through Friday, at the end of each day, the District Managers would have a conference call during which they would report their “solutions” numbers to the Regional Managers. On Saturday mornings, each bank branch was required to email their “solutions” numbers to the Regional Managers.

20. When hourly paid employees failed to meet their quarterly quotas for new account openings, they were severely reprimanded. First, they were placed on warning. If they continued to fail to meet their quarterly quotas for new accounts, the Wells Fargo hourly paid employees were demoted and/or terminated. Indeed, in or around April 2014, Plaintiff Morel had a quarterly review with his manager, Felix Ramirez. Plaintiff Morel had not met his quarterly new account numbers for the quarter ended March 30, 2014. During his review, Plaintiff Morel informed his manager that the quarterly new account numbers were unrealistic and unattainable and that Wells Fargo needed to change its policy. Plaintiff Morel explained to

his manager that the Wells Fargo target of opening eight “solutions” per customer was financially disadvantageous to many customers at the Paterson branch. Plaintiff Morel told his manager that a good majority of the Wells Fargo customers at the Paterson branch had a very modest or low income and that they were not able to maintain multiple minimum balance requirements of more than one account. As a result, fees and service charges for insufficient balance requirements were being charged to many Wells Fargo customers of modest or low income status. Plaintiff Morel also witnessed elderly Wells Fargo clients on fixed income being “bamboozled” into opening credit card accounts which they did not need in order to meet the Wells Fargo target of eight “solutions” per customer. After this review, Plaintiff Morel was frequently reprimanded by his manager, Mr. Ramirez, for failing to make a sale or open a new account. Mr. Ramirez also threatened to terminate Plaintiff Morel if he did not meet the new account numbers and became physically aggressive towards Plaintiff Morel. Plaintiff Morel often voiced his opinion to his manager that he was not going to force a product on people who did not need it. In response, his manager told Plaintiff Morel that “you got to do what you got to do.” When Plaintiff Morel failed to meet the quarterly new account numbers for the quarter ended June 30, 2014, he met again with his manager, Mr. Ramirez, in July 2014. During this meeting, Plaintiff Morel informed his manager that the sales targets were unrealistic and that he had witnessed employees forging accounts in order to meet the quotas. The next month, in August 2014, Plaintiff Morel was terminated by Wells Fargo, ostensibly for failing to meet his quarterly new account numbers.

21. In pursuit of its unrealistic cross-selling targets imposed by former Wells Fargo CEO Stumpf, and implemented nationwide through the Wells Fargo Regional Managers, Wells Fargo knowingly failed to pay Plaintiffs and other members of the Class overtime pay for the

hours they worked over 40 hours per week off-site and off the clock. Instead, Plaintiffs and the Class members were only compensated for the forty hours they worked in the bank branch offices of Wells Fargo at their standard hourly rates.

COLLECTIVE ACTION ALLEGATIONS

22. Plaintiffs incorporate by reference the foregoing allegations as if set forth herein.

23. Plaintiffs bring this action individually and as a representative for a collective action under the FLSA on behalf of all persons working for Defendants at any time during the period from three years of the date of the filing of Plaintiff's complaint and who meet the definition of the putative class members set forth above.

24. Plaintiffs and the other members of the Class are similarly situated, and Plaintiffs will prosecute this action vigorously on behalf of the Class.

25. Plaintiffs, through their counsel, will file a request under 29 U.S.C. Section 216 for this Court to provide other similarly situated current and former workers with notice and an opportunity to opt-in to this proceeding and to be subject to this Court's decision, or that of the fact finder, on the right to the wages and overtime described above.

CLASS ACTION ALLEGATIONS

26. Plaintiffs incorporate by reference the foregoing allegations as if set forth herein.

27. Plaintiff Merino brings this action individually and in a representative capacity on behalf of a class of persons who have worked for Wells Fargo in New Jersey and who meet the definition of the putative class members set forth above during any time in the two years prior to the date of filing Plaintiffs' complaint.

28. There are at least 100 persons, if not more, in the Class (the exact number will be in Defendants' records), and the Class is so numerous that joinder of all members is impracticable.

29. Defendants have engaged in the same conduct towards Plaintiff Merino and the other members of the Class.

30. The claims, defenses, and injuries of Plaintiff Merino are typical of the claims, defenses, and injuries of the class, and the claims, defenses, and injuries of the class members within the class are typical of those of the entire class.

31. The injuries and damages to the Class present questions of law and fact that are common to each class member within the Class, and that are common to the Class as a whole

32. Plaintiff Merino will fully and adequately protect and represent the class, and all of its putative class members.

33. The identity of all members of the class cannot be determined at this time, but will be so determined at a later time upon obtaining discovery from Defendants and others.

34. The prosecution of separate actions by each member of the Class would create a substantial risk of inconsistent or varying adjudications with regard to individual members of each class that would establish incompatible standards of conduct for Defendants.

35. The maintenance of a class action is the superior means of disposing of the common questions which predominate herein.

COUNT ONE

Violation of Fair Labor Standards Act ("FLSA") (Collective Action)

36. Plaintiffs incorporate the foregoing allegations as if fully set forth

herein.

37. Defendants are “employers” covered by the minimum wage and overtime requirements set forth in the Fair Labor Standards Act (“FLSA”).

38. As hourly paid employees for Defendants, Plaintiffs and the Class have worked in excess of the maximum weekly hours permitted under the FLSA, but were not paid overtime for those excess hours.

39. Plaintiff and the Class do not qualify for any exemption from the minimum wage and overtime obligations imposed by the FLSA.

40. Throughout Plaintiffs’ and the Class members’ employment, Wells Fargo has known that Plaintiffs and the Class were hourly paid employees who were required to solicit new accounts outside of regular bank branch business hours using the Wells Fargo Off Site Sheets in order to meet the quarterly new account quotas. Wells Fargo also has known that it is required to pay overtime wages at the rate of time and a half to Plaintiffs and the Class for hours worked over 40 in any week. In spite of such knowledge, Wells Fargo willfully have withheld and failed to pay the overtime compensation to which Plaintiffs and the other members of the Class are entitled.

41. Pursuant to the FLSA, Plaintiffs and the Class are entitled to unpaid overtime at a rate of one and one half times their hourly wage. Because Wells Fargo’s failure to pay such wages was willful pursuant to 28 U.S.C. § 255(a), Plaintiffs and the Class are entitled to these wages dating back three years.

42. The identity of all Class members is unknown at this time, but is known to Wells Fargo, and is set forth in Wells Fargo’s records. Plaintiffs are entitled to review these records and identify the other members of the Class who have a right to be provided with

notice and an opportunity to join this collective action.

43. The exact amount of compensation, including overtime compensation that Wells Fargo has failed to pay the Plaintiffs and the Class is unknown at this time, as many of the records necessary to make such precise calculations are in the possession of Wells Fargo, or were not kept by Wells Fargo.

44. The FLSA requires employers to make, keep, and preserve records of the wages, hours, and other conditions and practices of employment, and to preserve such records. Plaintiffs and the Class are entitled to review their records of hours worked and new accounts solicited each quarter in order to determine the exact amount of overtime wages owed by Wells Fargo. Absent Wells Fargo's keeping these records as required by law, Plaintiffs and the Class are entitled to submit their information about the number of overtime hours worked.

45. Wells Fargo's failure to pay Plaintiffs and the other Class members compensation in accordance with the lawful overtime rates is not based on good faith or reasonable grounds, or a belief that such failure is not in violation of the FLSA. Therefore, pursuant to 29 U.S.C. § 216(b), Plaintiffs are entitled to liquidated damages in an amount equal to the compensation and/or overtime which they have not been paid.

46. Plaintiffs have been required to file this action as the result of Wells Fargo's actions in failing to pay proper compensation. As such, Plaintiffs are entitled to attorneys' fees and costs incurred pursuant to 28 U.S.C. § 216(b).

COUNT TWO
Violation of the New Jersey Wage and Hour Law
(Class Action)

47. Plaintiff Merino incorporates the foregoing allegations as if fully set forth herein.

48. Wells Fargo is an employer covered by the New Jersey Wage and Hour Law, N.J.S.A. 34:11-56a(1)(g). The overtime wages sought by this claim are “wages” as defined by N.J.S.A. 34:11-56(a)(1)(d). Throughout the relevant period, Wells Fargo has been subject to the New Jersey Wage and Hour Act and the enabling Regulations noted here.

49. As hourly paid employees for Wells Fargo, Plaintiff Merino and the other members of the Class routinely worked overtime to solicit new accounts using the Off Site sheets, but were not paid at a rate of time and a half for all hours worked in excess of forty hours per week in violation of N.J.S.A. 12:56-6.1 *et seq.*

50. Plaintiff Merino and the Class do not qualify for any exemption from the wage and overtime requirements of the New Jersey Wage and Hour Law. They were subject to pay deductions that remove these exemptions and they do not otherwise meet the requirements of exempt status. See N.J.S.A. 34:11-56(a)(4).

51. The exact amount of compensation, including overtime compensation that Wells Fargo has failed to pay Plaintiff Merino and the putative New Jersey class members is unknown at this time, as many of the records necessary to make such precise calculations are in the possession of Wells Fargo, or were not kept by Wells Fargo.

52. The New Jersey Wage and Hour Law requires employers to make, keep, and preserve records of the wages, hours, and other conditions and practices of employment, and to preserve such records. Plaintiff Merino and the Class are entitled to review their records of hours worked off site to determine the exact amount of overtime wages owed by Wells Fargo. Absent Wells Fargo keeping these records as required by law, see N.J.S.A. 34:11-56(a)(20), Plaintiff Merino and the Class are entitled to submit their information about the number of hours worked.

53. Wells Fargo's failure to pay Plaintiff Merino and the Class overtime wages at a rate of time and a half the regular hourly wage for each hour of working time in excess of 40 hours in any week was willful within the meaning of the New Jersey Labor Law. See N.J.S.A. 34:11-56(a)(40).

54. As a result of Defendants' willful and unlawful conduct, Plaintiff Merino and the New Jersey class is entitled to an award of damages in an amount to be determined at trial, plus liquidated damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request judgment against Defendants as follows:

- a. a declaration that Defendants' conduct is in violation of the Federal and New Jersey State labor laws;
- b. compensatory damages, including minimum wage and overtime pay;
- c. liquidated and punitive damages;
- d. certification of a Class on behalf of the New Jersey workers under the New Jersey Wage and Hour Law;
- e. pre-judgment interest;
- f. attorneys' fees and costs;
- g. a right to trial by jury on those claims where jury trial is permitted; and
- h. any such further relief as may be just and proper.

Plaintiffs demand a trial by jury as to all claims so triable.

Dated: October 25, 2016

By: s/Roosevelt N. Nesmith
Roosevelt N. Nesmith

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Counsel for Plaintiffs

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

JUAN CARLOS MERINO and AGUSTIN MOREL, JR., individually and on behalf of all others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Law Office of Roosevelt N. Nesmith, LLC 363 Bloomfield Ave., Suite 2C Montclair, NJ 07042 (973) 259-6990

DEFENDANTS

WELLS FARGO & COMPANY and WELLS FARGO BANK, N.A.

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

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

Attorneys (If Known)

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

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

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

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

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

Click here for: Nature of Suit Code Descriptions.

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

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

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - 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. 201 et. seq.

Brief description of cause: Action for unpaid overtime wages

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 250,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 10/25/2016 SIGNATURE OF ATTORNEY OF RECORD s/Roosevelt N. Nesmith, Esq.

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

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

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If 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.