

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

TINA ROBBINS, individually and on behalf of all others similarly situated who were employed by PREMIER SENIOR LIVING, LLC, and/or any other entities affiliated with or controlled by PREMIER SENIOR LIVING, LLC,

Plaintiff,

v.

PREMIER SENIOR LIVING, LLC, and/or any other entities affiliated with or controlled by PREMIER SENIOR LIVING, LLC,

Defendants.

Civil Action No.: 5:21-cv-1164 (DNH/ML)

**CLASS AND COLLECTIVE
ACTION COMPLAINT**

JURY TRIAL DEMANDED

Tina Robbins (“Plaintiff”), on behalf of herself and all others similarly situated, allege as follows:

INTRODUCTION

1. This Class and Collective Action, brought by the Salespeople, Directors and Administrators of Premier Senior Living Services, LLC (“Premier” or “Defendant”), challenges Defendant’s practices and policies of misclassifying Plaintiff and other similarly-situated employees as “exempt” employees, and not paying them overtime compensation in violation of the Fair Labor Standards Act (“FLSA”) and the New York Labor Law (“NYLL”).

2. Premier ensures that its Salespeople, Administrators and Directors (such as Maintenance Directors, Dietary Directors, Business Directors and Wellness Directors) spend a substantial amount of time performing the same tasks as the hourly workers, such as dietary aids (including passing meals, cleaning and prepping the kitchen and preparing food), housekeeping aids (including cleaning the building, the bathrooms, the common areas, the resident rooms, and the kitchen), personal care aids (including showering and personal hygiene of residents, toileting

residents, and dressing residents) activities aids (including overseeing recreational activities to residents in groups and one on one), medical technicians (including ordering and distributing medication), licensed practical nurses (administering medicine including injections), and maintenance (including snow removal, replacing light bulbs, caulking, plumbing, and painting). Plaintiff and others similarly situated would spend a substantial amount of time, sometimes 100% of their work week, performing tasks like the above outside their exempt positions.

3. The Divisional Vice President supervising the Named Plaintiff mandated that Named Plaintiff and others learn the “Med Pass” protocol on their own without taking the usual 40-hour training course for distributing medication, an hourly wage duty. Plaintiff worked at Seneca Lake facility but spent about a month at the Edan Olean facility and spent 100% of her time performing hourly duties while there.

4. The reason Named Plaintiff and others similarly situated had to perform the above non-exempt duties was Defendant’s facility was short staffed. Plaintiff is aware of employees in exempt positions performing non-exempt hourly work duties in other locations because she spent approximately one month working at a different location simply to perform only non-exempt hourly type work as described above. Furthermore, she had discussions with multiple exempt employees from other locations who described performing hourly type work as Plaintiff and others in her location have done.

5. Accordingly, the salespeople, administrators and directors for Defendant are misclassified as “exempt” employees and should receive hourly pay including overtime.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 201, *et seq.*

7. This Court also has supplemental jurisdiction over Plaintiff’s state law claims

pursuant to 28 U.S.C. § 1367 because those claims derive from a common nucleus of operative facts.

8. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(ii) because a substantial part of the acts or omissions giving rise to the claims alleged herein occurred within this judicial district, and the Defendant and Plaintiffs are subject to personal jurisdiction in this district.

9. This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202.

PARTIES

10. Plaintiff Tina Robbins is a resident of New York State who was employed by Defendant salesperson in New York at its Seneca Lake Terrace facility located at 3670 PreEmption Road, Geneva, New York 14456 during the statutory period covered by this Complaint. Defendant failed to compensate Ms. Robbins for all hours worked and failed to pay her appropriate overtime.

11. At all relevant times hereto, Plaintiff was an “employee” under both New York State and federal law.

12. Defendant Premier provides residential living facilities for seniors and has a location called Seneca Lake Terrace at 3670 PreEmption Road, Geneva, New York 14456, and headquarters located at 245 Park Avenue, 39th Floor, New York, New York 10167. It has 16 facilities across five states, including New York, Pennsylvania, Ohio, North Carolina and Michigan. At all relevant times during the statutory period covered by this Complaint, Defendant has transacted business within the State of New York, including locations within this District. Upon information and belief Defendant has employed dozens of exempt employees within New York, and hundreds across the country.

13. At all relevant times hereto, Premier was an “employer” of Plaintiff and other

similarly-situated employees, within the meaning of the NYLL and FLSA.

14. At all relevant times hereto, Premier was an “enterprise” engaged in commerce or in the production of goods for commerce, within the meaning of the NYLL and FLSA.

FACTS

15. Named Plaintiff began working for Defendant in November 2019 as a Salesperson at its Seneca Lake Terrace facility located at 3670 PreEmption Road, Geneva, New York 14456.

16. Named Plaintiff was hired to work a 40-hour work week but always worked longer, typically about 60-70 hours per week on premises plus an additional 15-20 hours from home on her personal cell phone.

17. Named Plaintiff was terminated in April 2021.

18. Plaintiff’s job duties as a Salesperson included showing the residential facilities to potential residents and placing new residents in the facility.

19. However, Named Plaintiff spent a substantial amount of her time, sometimes 100%, performing duties that should have been performed by hourly, non-exempt employees.

20. These duties included work of dietary aids (including passing meals, cleaning and prepping the kitchen and preparing food), housekeeping aids (including cleaning the building, the bathrooms, the common areas, the resident rooms, and the kitchen), personal care aids (including showering and personal hygiene of residents, toileting residents, and dressing residents) activities aids (including overseeing recreational activities to residents in groups and one on one), medical technicians (including ordering and distributing medication), licensed practical nurses (administrating medicine including injections), and maintenance (including snow removal, replacing light bulbs and painting).

21. Named Plaintiff personally witnessed other exempt employees, such as directors and the administrator, also performing these duties for a substantial and sometimes 100% of their time.

22. Other exempt employees worked hours similar to Named Plaintiff.

23. Named Plaintiff worked for approximately one month at Defendant's location in Olean, New York and spent 100% of her time performing non-exempt hourly duties such as those described above.

24. Named Plaintiff is aware through telephone conversations with exempt employees at Defendant's other locations that they are also spending a substantial amount of their time performing non-exempt hourly type duties.

25. Defendant owns and operates 16 residential senior living facilities in five states.

26. As part of its operations, Defendant employs Salespeople, Directors and Administrators.

27. Defendant's Directors include Maintenance Directors, Dietary Directors, Business Directors and Wellness Directors.

28. Defendant's Salespeople, Directors and Administrators are hired as salaried exempt employees.

29. Defendant's Salespeople, Directors and Administrators spend a substantial amount of their time, sometimes 100% of their time, performing the duties of non-exempt hourly employees.

30. Defendant's Salespeople, Directors and Administrators, are misclassified as exempt from overtime.

31. Defendant misclassifies its Salespeople, Directors and Administrators as exempt employees in order to circumvent the FLSA and the NYLL and avoid paying those employees overtime.

COLLECTIVE ACTION ALLEGATIONS

32. Plaintiff brings this action as a collective action to recover unpaid wages, including unpaid overtime compensation, pursuant to the Fair Labor Standards Act, 29 U.S.C.

§§ 207 and 216(b), on behalf of a class of current and former Salespeople, Directors and Administrators employed by Defendant during the statutory period covered by this Complaint.

33. Plaintiffs bring this suit on behalf of the following similarly situated persons:

All current and former Salespersons, Directors and Administrators who have worked for Defendant within the statutory period covered by this Complaint, and elect to opt-in to this action pursuant to the FLSA, 29 U.S.C. § 216(b) (“Nationwide Collective Class”).

34. Plaintiffs allege on behalf of the Nationwide Collective Class that they are: (i) entitled to unpaid wages from Defendant for overtime work for which they did not receive overtime premium pay, as required by law; and (ii) entitled to liquidated damages pursuant to the FLSA, 29 U.S.C. § 201, *et seq.*

35. The claims under the FLSA may be pursued by those who opt-in to this case pursuant to 29 U.S.C. § 216(b).

36. Defendant has engaged in a continuing and willful violation of the FLSA.

37. There are numerous similarly-situated current and former Salespersons, Directors and Administrators of Defendant who have worked over 40 hours a week without appropriate overtime pay, in violation of the FLSA. These employees all spent a substantial, sometimes 100%, amount of their time performing non-exempt duties.

38. These similarly-situated current and former Salespersons, Directors and Administrators would benefit greatly from the issuance of a court-supervised notice of the present lawsuit and the opportunity to join in the lawsuit pursuant to 28 U.S.C. § 216(b). These similarly-situated employees are known to Defendant, are readily identifiable, and can be located through Defendant’s records. As such, notice should be sent to Defendant’s past and present Salespersons, Directors and Administrators.

CLASS ACTION ALLEGATIONS

39. Plaintiff further brings this action as a state-wide class action pursuant to Fed. R.

Civ. P. 23, on behalf of herself and a class of current and former Salespersons, Directors and Administrators employed by Defendant within the State of New York to recover unpaid wages, including premium overtime compensation for all hours worked in excess of 40 per workweek, and “spread of hours” compensation for all hours worked in excess of 10 hours in a single workday, pursuant to the NYLL.

40. Plaintiff brings this suit on behalf of herself and a class of similarly situated persons composed of:

All current and former Salespersons, Directors and Administrators who have worked for Defendant in the State of New York during the statutory period covered by this Complaint (the “NY Class”).

41. Plaintiff alleges on behalf of the NY Class that Defendant violated the NYLL by, *inter alia*: (i) failing to pay them overtime at the rate of one and one-half times the employee’s regular salary for all hours worked in excess of 40 hours in any given workweek; and (ii) failing to provide the required wage notices.

42. The claims brought pursuant to the NYLL may be pursued by all similarly- situated persons who do not opt out of the NY Class pursuant to Fed. R. Civ. P. 23.

43. The members of each of the NY Class are so numerous that joinder of all members is impracticable. While the exact number of the members of the NY Class is unknown to Plaintiff at this time, and can only be ascertained through appropriate discovery, Plaintiffs believe there are hundreds of individuals in the NY Class.

44. Common questions of law and fact, the answers to which will advance this litigation, exist as to the NY Class and predominate over any questions only affecting them individually. Indeed, there are few if any purely individual issues in this case. The questions of law and fact that are common to Plaintiff and all members of the NY Class include, but are not limited to, the following:

(a) whether Salespersons, Directors and Administrators are improperly classified as “exempt” employees under the NYLL;

(b) whether Plaintiff and the members of NY Class were expected to and/or were mandated to regularly work hours without compensation in violation of the NYLL;

(c) whether Defendant has failed to pay Plaintiff and members of the NY Class all overtime compensation due to them for all hours worked in excess of 40 hours per week;

(d) whether it was Defendant’s policy or practice not to provide Plaintiff and the NY Class wage notices as required by the NYLL;

(e) whether Plaintiff and members of the NY Class are entitled to compensatory damages, and if so, the means of measuring such damages; and

(f) whether Plaintiff and members of the NY Class are entitled to liquidated damages and injunctive relief.

45. The claims of Plaintiff are typical of the claims of the members of the NY Class she seeks to represent. Plaintiff and the members of the NY Class work, or have worked, for Defendant as Salespersons, Directors and Administrators and are, or were, subject to the same compensation policies and practices, including not being compensated for all hours worked and/or not being paid overtime compensation.

46. Plaintiff will fairly and adequately protect the interests of the NY Class as her interests are in alignment with those of the members of the NY Class. She has no interests adverse to the class she seeks to represent, and have retained competent and experienced counsel.

47. Defendant has acted or has refused to act on grounds generally applicable to the NY Class, thereby making final injunctive relief or corresponding declaratory relief with respect to the NY Class as a whole appropriate.

48. The class action mechanism is superior to other available methods for a fair and

efficient adjudication of the controversy. Common issues of law and fact predominate over any individual issues. The damages suffered by individual members of the NY Class may be relatively small when compared to the expense and burden of litigation, making it virtually impossible for members of the NY Class to individually seek redress for the wrongs done to them.

49. The Nationwide Collective Class and the NY Class are hereafter together referred to as the “Classes.”

FIRST CLAIM FOR RELIEF
FAIR LABOR STANDARDS ACT OVERTIME VIOLATIONS
(On Behalf of the Nationwide Collective Class)

50. Plaintiff, on behalf of herself and the Nationwide Collective Class, realleges and incorporates by reference the paragraphs above as if they were set forth again herein.

51. At all relevant times, Defendant has had gross revenues in excess of \$500,000.

52. At all relevant times, Defendant has been and continues to be, an employer engaged in interstate commerce, within the meaning of the FLSA, 29 U.S.C. §§ 206(a) and 207(a).

53. At all relevant times, Defendant has employed, and/or continues to employ, Plaintiffs and each of the Nationwide Collective Class Members within the meaning of the FLSA.

54. At all relevant times, Defendant had a willful policy and practice of misclassifying Plaintiff and similarly situated Salespersons, Directors and Administrators as “exempt” in order to avoid paying them for all hours worked or appropriate overtime compensation for all hours worked in excess of 40 hours per workweek.

55. As a result of the Defendant’s willful failure to compensate its employees, including Plaintiff and the members of the Nationwide Collective Class, for all hours worked and at a rate not less than one and one-half times the regular rate of pay for work performed in excess of 40 hours in a workweek, Defendant has violated and, continues to violate, the FLSA, 29 U.S.C. §§ 201, *et seq.*

56. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(a).

57. Due to the Defendant's FLSA violations, Plaintiff, on behalf of herself and the members of the Nationwide Collective Class, is entitled to recover from the Defendant: compensation for unpaid wages; an additional equal amount as liquidated damages; and reasonable attorneys' fees and costs and disbursements of this action, pursuant to 29 U.S.C. § 216(b).

SECOND CLAIM FOR RELIEF
NEW YORK LABOR LAW – OVERTIME VIOLATIONS
(On Behalf of the NY Class)

58. Plaintiff, on behalf of herself and all NY Class members, realleges and incorporates by reference the paragraphs above as if they were set forth again herein.

59. Plaintiff was employed by Defendant within the meaning of the NYLL.

60. At all relevant times, Defendant had a willful policy and practice of misclassifying Plaintiff and similarly situated Salespersons, Directors and Administrators as "exempt" in order to avoid paying them for all hours worked or appropriate overtime compensation for all hours worked in excess of 40 hours per workweek.

61. As a result of the Defendant's willful failure to compensate its employees, including Plaintiff and the members of the NY Class, for all hours worked and at a rate not less than one and one-half times the regular rate of pay for work performed in excess of 40 hours in a workweek, Defendant has violated and, continues to violate, N.Y. Lab. Law Article 19 §§ 650, *et seq.*, and the supporting New York State Department of Labor Regulations.

62. Due to the Defendant's violations of the NYLL, Plaintiff and the members of the NY Class are entitled to recover from the Defendant: compensation for unpaid wages; an additional equal amount as liquidated damages; and reasonable attorneys' fees and costs and disbursements of this action, pursuant to N.Y. Lab. Law Article 19 § 663.

THIRD CLAIM FOR RELIEF
NEW YORK LABOR LAW – FAILURE TO PROVIDE
WAGE NOTICES
(On Behalf of the NY Class)

63. Plaintiff, on behalf of herself and all members of the NY Class, realleges and incorporates by reference the paragraphs above as if they were set forth again herein.

64. Defendant has willfully failed to provide Named Plaintiffs and those similarly situated with wage notices, as required by NYLL § 195(1), in English or in the language identified as their primary language, containing Plaintiffs rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; hourly rate or rates of pay and overtime rate or rates of pay if applicable; the regular pay day designated by the employer in accordance with NYLL § 191; the name of the employer; any “doing business as” names use by the employer; the physical address of the employer’s main office or principal place of business and a mailing address if different; the telephone number of the employer; plus, such other information as the commissioner deems material and necessary.

65. Plaintiff and those similarly situated did not receive all required wage notices during their employment with defendant.

66. Through their knowing or intentional failure to provide Plaintiffs with the wage notices required by the NYLL, Defendant has willfully violated NYLL §§ 191(1) and the supporting New York State Department of Labor Regulations.

67. According to NYLL § 198-1(b), Plaintiffs are entitled to \$50 for every day they did not receive a wage notice up to a total of \$5000, together with costs and reasonable attorney’s fees.

68. By the foregoing reasons, Defendant violated NYLL §§ 195(1) and (3) and are liable to the Plaintiffs pursuant to NYLL 198-1(b) in an amount to be determined at trial, plus liquidated damages, interest, attorneys' fees and costs.

FOURTH CLAIM FOR RELIEF
UNJUST ENRICHMENT
(On Behalf of NY Class)

69. Plaintiff, on behalf of herself and all NY Class members, realleges and incorporates by reference the paragraphs above as if they were set forth again herein.

70. This Count is pled in the alternative to Plaintiff's Second Claim for Relief.

71. Plaintiff and the NY Class were not paid and continue not to be paid wages for all time that they worked.

72. Defendant retained the benefit of the Plaintiff's and the NY Class members' uncompensated work under circumstances which rendered it inequitable and unjust for Defendant to retain such benefits without paying for their value.

73. Consequently, Defendant was unjustly enriched by requiring Plaintiff and members of the NY Class to work for hours for which they were not compensated.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and/or on behalf of herself and all other similarly situated members of the Nationwide Collective Class, and members of the NY Class, respectfully requests that this Court grant the following relief:

A. Designation of this action as a collective action on behalf of the Nationwide Collective Class, and prompt issuance of notice pursuant to 29 U.S.C. § 216(b), apprising them of the pendency of this action, and permitting them to assert timely FLSA claims in this action by filing individual Consents to Sue pursuant to 29 U.S.C. § 216(b);

B. Designation of the action as a class action under Fed. R. Civ. P. 23 on behalf of the NY Class;

C. A declaratory judgment that the practices complained of herein are unlawful under

the FLSA and NYLL;

D. An injunction against the Defendant and their officers, agents, successors, employees, representatives and any and all persons acting in concert with it, as provided by law, from engaging in each of the unlawful practices, policies and patterns set forth herein;

E. An injunction against the Defendant and their officers, agents, successors, employees, representatives and any and all persons acting in concert with it, as provided by law, from taking any retaliatory actions against Plaintiffs, the Nationwide Collective Class and the members of the NY Class;

F. An award of unpaid overtime compensation to Plaintiff, the Collective Action members, and the members of the NY Class;

G. An award to Plaintiff and the members of the NY Class of statutory damages under regulations promulgated under the NYLL for failure to provide wage notices;

H. An award of liquidated damages to Plaintiffs and members of the Classes;

I. An award of prejudgment and post-judgment interest to Plaintiff and members of the Classes;

J. An award of costs and expenses of this action together with reasonable attorneys' and expert fees to Plaintiffs and members of the Classes; and

K. Such other and further relief as this Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury on all questions of fact raised by the complaint.

Dated: October 26, 2021

Respectfully submitted,

By: /s/ Frank S. Gattuso

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Attorneys for Plaintiff and the Putative Class

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

TINA ROBBINS, individually and on behalf of all others similarly situated who were employed by PREMIER

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

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

Gattuso & Ciotoli, PLLC 7030 E. Genesee Street

DEFENDANTS

PREMIER SENIOR LIVING, LLC, and/or any other entities

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)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, 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. §§ 207 and 216(b), Brief description of cause: Misclassified employees as exempt from overtime and failure to pay overtime

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 100,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

/s/ Frank S. Gattuso

FOR OFFICE USE ONLY ANYNDC-5693370 RECEIPT #

AMOUNT \$402.00

APPLYING IFP

JUDGE DNH

MAG. JUDGE ML

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.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Ex-Premier Senior Living Employee Claims Salaried Workers Denied Overtime for Non-Exempt Work](#)
