

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
WEST PALM BEACH DIVISION

CASE NO.:

MARK SANITA, on behalf of himself and all others  
similarly situated,

Plaintiff,

v.

MCS LEASING INC, d/b/a FAMILY RENTALS, a Florida  
Profit Corporation,

Defendant.

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff, MARK SANITA (“SANITA” or “Plaintiff”), by and through his undersigned counsel, files this Complaint against Defendant, MCS LEASING INC, d/b/a FAMILY RENTALS, a Florida Profit Corporation (“MCS”), and states as follows:

**INTRODUCTION**

1. Plaintiff worked, and continued to work, as an hourly paid Laborer/Delivery Driver for Defendant, in the State of Florida, handling and locally delivering numerous different rental products to Defendant’s local customers.
2. Plaintiff brings this lawsuit on behalf of himself and all other similarly-situated employees of Defendant, who performed similar duties to, and who were paid in the same illegal manner as Plaintiff.
3. Defendant has a policy and practice of failing to pay hourly paid Laborers/Delivery Drivers like Plaintiff full and proper overtime compensation for all overtime hours worked.

4. This lawsuit is brought as a collective action under the FLSA to recover unpaid overtime compensation owed to Plaintiff and other similarly-situated employees.

5. Plaintiff will seek conditional certification and notice to an opt-in class of hourly paid Laborers/Delivery Drivers pursuant to the FLSA, 29 U.S.C. § 216(b), who were employed by Defendant during the applicable three-year period preceding the filing of this action (hereinafter, "Relevant Liability Period").

#### **JURISDICTION AND VENUE**

6. Jurisdiction in this Court is proper as the claims are brought pursuant to the Fair Labor Standards Act, as amended (29 U.S.C. §201 hereinafter called the "FLSA") to: recover overtime wages, an additional equal amount as liquidated damages, obtain declaratory relief, and other relief permitted by the FLSA, and reasonable attorney's fees and costs.

7. Venue in the Southern District of Florida is proper pursuant to 28 U.S.C. § 1391(b) and (c), because Defendant provides services in this District and is thus considered a resident of this District. Further, a significant portion of the events giving rise to the claim alleged herein occurred within this District.

8. This Court has the authority to grant declaratory relief pursuant to the FLSA and the Federal Declaratory Judgment Act ("DJA"), 28 U.S.C. §§ 2201-02.

#### **PARTIES**

9. At all times material hereto, Plaintiff was and continues to be a resident of Palm Beach County, Florida.

10. At all times material hereto, Plaintiff was an "employee" of Defendant within the meaning of FLSA.

11. During the Relevant Liability Period, Defendant failed to pay Plaintiff for all hours

worked and denied Plaintiff overtime compensation for hours worked in excess of forty per week.

12. Plaintiff filed his Consent to Become Party Plaintiff in this action. *See* attached Consent to Become a Party Plaintiff.

13. At all times material hereto, MCS was and continues to be a Florida Profit Corporation. Further, at all times material hereto, MCS was and continues to be engaged in business in Florida, with its principal place of business in Palm Beach County, Florida.

14. At all times material hereto, Plaintiff was “engaged in commerce” within the meaning of §6 and §7 of the FLSA, but not within the meaning of the Motor Carrier Act.

15. At all times material hereto, Defendant was an “employer” within the meaning of FLSA.

16. At all times material hereto, MCS was and continues to be “an enterprise engaged in commerce,” within the meaning of FLSA.

17. Based upon information and belief, the annual gross revenue of Defendant was in excess of \$500,000.00 per annum during the relevant time periods.

18. During the Relevant Liability Period, Defendant has employed two or more persons, including Plaintiff, and has "had employees handling, selling or otherwise working on goods or materials that have been moved in or produced for commerce by any person," as defined in § 203(s)(1)(A)(i).

#### **STATEMENT OF FACTS**

19. Defendant holds itself out to the public as follows: “Our rental items include cribs and baby needs, beds and furniture. We offer a full selection of party items like tables, chairs, linens, and glassware, and no minimums. Our on-staff event planners can coordinate any size event no matter how large or small. Family Rentals also provides round-the-clock rentals, sales and service

of medical and mobility equipment such as wheelchairs, electric scooters, hospital beds and much more. We are fully insured and accredited by the State of Florida and are licensed providers of Pride Mobility Products and Tuffcare Medical Equipment. Our rental delivery service is available 24 hours a day, 7 days a week, and 365 days a year.”

20. Defendant employs individuals, like Plaintiff, to serve as hourly paid Laborers/Delivery Drivers throughout the tri-county area in South Florida, including Broward, Miami-Dade, and Palm Beach Counties.

21. Defendant’s hourly paid Laborers/Delivery Driver’s are the backbone of the company, bringing and maintaining Defendant’s local services to the public.

22. Defendant has employed Plaintiff and similarly situated employees as hourly paid Laborers/Delivery Drivers, or in equivalent positions with similar job duties, however titled, throughout South Florida.

23. Plaintiff, and those similarly situated, are not exempt from the overtime provisions of the FLSA and are paid on an hourly basis.

24. Plaintiff began working for Defendant as a non-exempt Laborer/Delivery Driver, from October 2011, and is presently still employed in the same capacity.

25. During his tenure, Plaintiff was supposed to be paid \$12.00 per hour for hours worked below forty (40) per week, and time and one-half for all hours worked over forty (40) per week.

26. At various material times hereto, Plaintiff worked for Defendant in excess of forty (40) hours within a work week, and oftentimes up to sixty (60) hours per week, and was paid **straight time**, for all hours worked over forty (40).

27. While Plaintiff does not have all of his pay and time records since March 2015, through

October 11, 2017, the timeframe for which Defendant failed to compensate Plaintiff proper overtime wages, Plaintiff estimates his overtime damages to be, based on the above estimations as follows: \$6.00 owed in half time per hour X 20 OT hours per week = \$120.00 owed per week X 135 weeks = **\$16,200.00 unliquidated**, and **\$32,400.00 liquidated**, plus attorneys' fees and costs.

28. Plaintiff should be compensated at the rate of one and one-half times Plaintiff's regular rate for those hours that Plaintiff worked in excess of forty (40) hours per week, as required by the FLSA.

29. From the commencement of Plaintiff's employment, until October 11, 2017, Defendant failed to pay Plaintiff and the putative class, proper overtime compensation, at the federally mandated rate of time and one-half their hourly rate of pay.

30. In sum, Plaintiff and the putative class routinely worked over forty hours in a work week, but were not paid full and proper overtime wages for all of that work, as required by the FLSA.

31. Defendant has known that Plaintiff and all similarly situated employees, perform work without proper compensation and Defendant chose to deny them overtime compensation, for performing this work, in willful disregard of their rights under the FLSA.

32. Prior to the filing of this lawsuit, Defendant did not consult with an attorney to evaluate whether Plaintiff's actual job duties and pay structure rendered him exempt under the overtime provisions of the FLSA.

33. Prior to the filing of this lawsuit, Defendant did not consult with the DOL to evaluate whether Plaintiff's actual job duties and pay structure rendered him exempt under the overtime provisions of the FLSA.

34. Prior to the filing of this lawsuit, Defendant did not consult with an accountant to

evaluate whether Plaintiff's actual job duties and pay structure rendered him exempt under the overtime provisions of the FLSA.

35. Based on the allegations in Paragraphs 32-34, above, Plaintiff is entitled to liquidated damages as Defendant had no objective or subjective good faith belief that its pay practices were in compliance with the FLSA.

36. Plaintiff has retained the law firm of CELLER LEGAL, P.A. to represent him and the putative class, in the litigation, and has agreed to pay the firm a reasonable fee for its services.

### **COLLECTIVE ACTION ALLEGATIONS**

37. Plaintiff re-alleges and incorporates by reference the preceding paragraphs 1 through 36.

38. Plaintiff brings Count I as an opt-in collective action pursuant to 29 U.S.C. § 216(b) on behalf of himself and the following:

All persons employed as local hourly paid Laborers/Delivery Drivers for Defendant for the past three years (plus any applicable tolling) from the date of this Complaint to the present.

39. The FLSA claim may be pursued by those who opt-in to this case, pursuant to 29 U.S.C. § 216(b).

40. Plaintiff, individually and on behalf of other similarly-situated employees, seeks relief on a collective basis challenging, among other FLSA violations, Defendant's policies and practices of failing to pay full and proper overtime compensation.

41. The number and identity of other Plaintiffs yet to opt-in and consent to be party Plaintiffs, may be determined from the records of Defendant, and potential class members may easily and quickly be notified of the pendency of this action.

**COUNT I**

**FAILURE TO PAY OVERTIME COMPENSATION TO HOURLY PAID  
LABORERS IN VIOLATION OF THE FLSA DURING THE FLSA  
RELEVANT LIABILITY PERIOD**

42. Plaintiff re-alleges and incorporates by reference the preceding paragraphs 1 through 36 with respect to all hourly paid laborers.

43. During the FLSA Relevant Liability Period, Defendant failed to accurately record all hours worked by all hourly paid laborers, and did not fully compensate hourly paid laborers for all their hours worked for Defendant in excess of forty (40) per week as required by Section 207 of the FLSA.

44. Hourly paid Laborers/Delivery Drivers were victims of an illegal policy and plan by Defendant to deny them overtime compensation required by the FLSA.

45. Defendant's failure to pay hourly paid Laborers/Delivery Drivers in accordance with the requirements of Section 207 of the FLSA was in willful disregard of the overtime wage compensation requirements of the FLSA.

46. Plaintiff, on behalf of himself and other hourly paid Laborers/Delivery Drivers, seeks unpaid overtime compensation in an amount to be determined, as well as an equal amount of liquidated damages (or pre-judgment interest in the event liquidated damages are denied), post-judgment interest, and attorneys' fees and costs pursuant to 29 U.S.C. § 216(b).

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, individually and on behalf of all hourly paid Laborers/Delivery Drivers, demands judgment against Defendant and prays this Court:

- a. Issue notice to all hourly paid Laborers/Delivery Drivers who were employed by

Defendant at any time during the Relevant Liability Period, informing them of their right to file consents to join this action;

- b. Declare Defendant's policy of failing to keep accurate time records and not paying hourly paid Laborers/Delivery Drivers overtime illegal under the FLSA;
- c. Find that Defendant's violation of the FLSA was willful and impose a three- year statute of limitations period for FLSA claims;
- d. Award Plaintiff and all other hourly paid Laborers/Delivery Drivers unpaid overtime compensation;
- e. Award hourly paid Laborers/Delivery Drivers an amount equal to unpaid overtime compensation as liquidated damages under 29 U.S.C. § 216(b);
- f. Award hourly paid Laborers/Delivery Drivers pre-judgment interest if liquidated damages are not awarded;
- g. Award hourly paid Laborers/Delivery Drivers post-judgment interest as provided by law;
- h. Award hourly paid Laborers/Delivery Drivers reasonable attorneys' fees and costs as mandated by Section 216(b) of the FLSA; and
- i. Award hourly paid Laborers/Delivery Drivers such other relief as the Court deems fair and equitable.

**JURY DEMAND**

Plaintiff demands trial by jury on all issues so triable as a matter of right by jury.



Dated: March 9, 2018.

Respectfully submitted,

By: /s/ NOAH E. STORCH

Noah E. Storch, Esq.

Florida Bar No. 0085476

Richard Celler, Esq.

Florida Bar No. 0173370

Richard Celler Legal, P.A

7450 Griffin Road, Suite 230

Davie, FL 33314

Telephone: (866) 344-9243

Facsimile: (954) 337-2771

Email: [noah@floridaovertimelawyer.com](mailto:noah@floridaovertimelawyer.com)

Email: [richard@floridaovertimelawyer.com](mailto:richard@floridaovertimelawyer.com)

*Attorneys for Plaintiff*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION

MARK SANITA, on behalf of  
himself and others similarly situated,

Plaintiff,

CASE NO.:

v.

MCS LEASING INC, d/b/a FAMILY RENTALS,  
a Florida Profit Corporation,

Defendant.

\_\_\_\_\_ /

**CONSENT TO BECOME PARTY PLAINTIFF**

I, MARK SANITA, consent to become the party plaintiff in the above-styled  
Lawsuit.

Date: March 5, 2018

Signature: Mark Sanita

Print: Mark Sanita

JS 44 (Rev. 12/12) (Modified by FLSD - April 29, 2013)

**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.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

**I. (a) PLAINTIFFS** MARK SANITA, on behalf of himself and all others similarly situated, **DEFENDANTS** MCS LEASING INC, d/b/a FAMILY RENTALS, a Florida

**(b)** County of Residence of First Listed Plaintiff **Palm Beach** County of Residence of First Listed Defendant **Palm Beach**  
(EXCEPT IN U.S. PLAINTIFF CASES) (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.  
Attorneys (If Known)

**(c)** Attorneys (Firm Name, Address, and Telephone Number)  
RICHARD CELLER LEGAL P.A. NOAH E. STORCH, Esq.  
7450 GRIFFIN ROAD STE. 230 DAVIE FL. 33314  
TFI · 866-344-0743

**(d)** Check County Where Action Arose:  MIAMI-DADE  MONROE  BROWARD  PALM BEACH  MARTIN  ST. LUCIE  INDIAN RIVER  OKEECHOBEE  HIGHLANDS

| II. BASIS OF JURISDICTION (Place an "X" in One Box Only) |  | III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) |   |  |   |
|--|--|---|---|--|---|
| <input type="checkbox"/> 1 U.S. Government Plaintiff     | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) | PTF DEF   | PTF DEF   | PTF DEF  | PTF DEF   |
| <input type="checkbox"/> 2 U.S. Government Defendant     | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)   | Citizen of This State <input type="checkbox"/> 1 <input type="checkbox"/> 1                             | Incorporated or Principal Place of Business In This State <input type="checkbox"/> 4 <input type="checkbox"/> 4 | Citizen of Another State <input type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
|  |  | Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input type="checkbox"/> 3           | Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6  |  |   |

| IV. NATURE OF SUIT (Place an "X" in One Box Only)  |   |   |   |  |
|--|---|---|---|--|
| <b>CONTRACT</b>  | <b>TORTS</b>  | <b>FORFEITURE/PENALTY</b>   | <b>BANKRUPTCY</b>   | <b>OTHER STATUTES</b>  |
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Personal Injury - Med. Malpractice | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 690 Other<br><b>LABOR</b><br><input checked="" type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 751 Family and Medical Leave Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act<br><b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 465 Other Immigration Actions  | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609  |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property   | <b>CIVIL RIGHTS</b><br><input type="checkbox"/> 440 Other Civil Rights<br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 448 Education  | <b>PRISONER PETITIONS</b><br><b>Habeas Corpus:</b><br><input type="checkbox"/> 463 Alien Detainee<br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><b>Other:</b><br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition<br><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement                                 | <input type="checkbox"/> 424 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><input type="checkbox"/> 950 Constitutionality of State Statutes |

**V. ORIGIN** (Place an "X" in One Box Only)  
 1 Original Proceeding  2 Removed from State Court  3 Re-filed (See VI below)  4 Reinstated or Reopened  5 Transferred from another district (specify)  6 Multidistrict Litigation  7 Appeal to District Judge from Magistrate Judgment  8 Remanded from Appellate Court

**VI. RELATED/ RE-FILED CASE(S)** (See instructions):  
 a) Re-filed Case  YES  NO b) Related Cases  YES  NO  
 JUDGE DOCKET NUMBER

**VII. CAUSE OF ACTION** Fair Labor Standards Act, as amended (29 U.S.C. §201, et seq., hereinafter called the "FLSA")  
 Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):  
 LENGTH OF TRIAL via days estimated (for both sides to try entire case)

**VIII. REQUESTED IN COMPLAINT:**  CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** CHECK YES only if demanded in complaint: **JURY DEMAND:**  Yes  No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE  
 DATE: March 7, 2018 SIGNATURE OF ATTORNEY OF RECORD: 

**FOR OFFICE USE ONLY**  
 RECEIPT # AMOUNT IFF JUDGE MAG JUDGE

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

### Authority For Civil Cover Sheet

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

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.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; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the 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.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

**VI. Related/Refiled Cases.** This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

**VII. 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

**VIII. 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 dollar amount (in thousands of dollars) 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.

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

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

MARK SANITA, on behalf of himself and all others
similarly situated

Plaintiff(s)

v.

MCS LEASING INC, d/b/a FAMILY RENTALS, a
Florida
Profit Corporation,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) MCS LEASING INC, d/b/a FAMILY RENTALS.
MERLO, MICHAEL PRESIDE - REGISTERED AGENT
2905 S. CONGRESS AVENUE
SUITE H
Delray Beach, FL 33445

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,
whose name and address are:

RICHARD CELLER LEGAL, P.A.
NOAH E. STORCH, ESQUIRE
7450 GRIFFIN ROAD, SUITE 230
DAVIE, FLORIDA 33314
(866) 344-9243
E-mail: noah@floridaovertimelawyer.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.
You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**Print**

**Save As...**

**Reset**

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