

value of \$5,000,000, exclusive of interest and costs. CAFA authorizes removal of such actions in accordance with 28 U.S.C. § 1446. *See Kaufman v. Allstate New Jersey Ins. Co.*, 561 F.3d 144, 149 (3d Cir. 2009).

2. This Court has jurisdiction over this case under CAFA, 28 U.S.C. § 1332(d), and the case may be removed pursuant to the provisions of 28 U.S.C. § 1441(a), because it is a civil class action in which (1) the putative class contains at least 100 members; (2) CareFusion is not a state, state official, or other governmental entity; (3) the total amount in controversy for all putative class members exceeds \$5,000,000, exclusive of interest and costs; and (4) there is diversity between at least one putative class member and CareFusion.

3. CAFA's diversity requirement is satisfied when at least one plaintiff is a citizen of a state in which the defendant is not a citizen. 28 U.S.C. §§ 1332(d)(2)(A), 1453; *Mississippi ex rel Hood v. AU Optronics Corp.*, 571 U.S. 161, 165 (2014).

4. As set forth in detail below, this case meets all of CAFA's requirements for removal and is timely and properly removed by filing of this Notice.

II. VENUE IS PROPER IN THIS COURT

5. The action was filed in Superior Court for the State of Delaware. Venue is proper in this Court under 28 U.S.C. §§ 1391, 1441(a), and 1446 because

the United States District Court for the District of Delaware is the federal district embracing the Superior Court for the State of Delaware.

III. THE PARTIES AND THE CLAIMS

6. Defendant is a medical-technology company specializing in the development of patient safety-focused medical devices, including infusion pumps and automated medication administration cabinets. (Compl., ¶ 1). Defendant sells, leases, and licenses such devices to hospitals and medical facilities throughout the United States. (Compl., ¶ 11). To provide maintenance and repair services for that equipment, Defendant contracts with affiliates. (Compl., ¶¶ 13, 14, 16).

7. CareFusion is a Delaware Limited Liability Company which maintains its principal place of business in California. (Compl., ¶ 8); (Decl. of Ed Potts, ¶¶ 4,5).

8. Plaintiffs Steve Ward and Francis Tressa contracted with CareFusion to perform work as affiliates. (Compl., ¶¶ 9, 10).

9. Plaintiff Francis Tressa is a resident of Pringle, Pennsylvania. (Compl., ¶ 10).

10. The Complaint alleges CareFusion misclassified Plaintiffs and other affiliates as independent contractors pursuant to “the California Labor Code and/or, in the alternative, other applicable labor codes with respect to affiliates.” (Compl., ¶ 23). Plaintiffs assert CareFusion was unjustly enriched by the purported

retention of such business expenses and overtime compensation, and seek to bring their claim on a class-wide basis pursuant to Del. Super. Ct. R. Civ. P. 23 (Compl., ¶ 52).

IV. THIS CASE MEETS CAFA'S REMOVAL REQUIREMENTS

A. The Putative Class Contains At Least 100 Members

11. CAFA provides this Court with jurisdiction over a class action when “the number of members of all proposed plaintiff classes in the aggregate [is not] less than 100.” 28 U.S.C. §1332(d)(5)(B). CAFA defines “class members” as those “persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.” 28 U.S.C. §1332(d)(1)(D).

12. While CareFusion denies that Plaintiffs were “employees” as stated in Plaintiffs’ proposed class definition, Plaintiffs seek to represent “all current and former field service technician affiliates employed by Defendant at any time during the three years preceding the filing of this Complaint.” (Compl., ¶ 52).

13. Plaintiffs assert the putative class consists of at least one hundred persons. (Compl., ¶ 55). Defendant is entitled to rely upon “this fact as an admission in favor of jurisdiction.” *See Judon v. Travelers Property Cas. Co. of America*, 773 F. 3d 495, 505 (3d Cir. 2014). Accordingly, the alleged putative class contains at least 100 members and this element is satisfied for purposes of removal under CAFA.

B. CareFusion is Not a Governmental Entity

14. CareFusion is a limited liability company organized under the laws of the State of Delaware, and maintains its principal place of business in San Diego, California. CareFusion is not a state, state official, or other governmental entity.

C. Diversity of Citizenship Exists

15. The diversity of citizenship statute provides in pertinent part that “[t]he district courts shall have original jurisdiction of all civil actions where the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between – (1) citizens of different States....” 28 U.S.C. §1332(a). Only minimal diversity is required under CAFA, and as such, CAFA diversity jurisdiction exists if “any member of a class of plaintiffs is a citizen of a State different from *any* defendant.” 28 U.S.C. § 1332(d)(2)(A) (emphasis added); *Mississippi ex rel Hood v. AU Optronics Corp.*, 571 U.S. 161. 165 (2014).

16. Under CAFA, a limited liability company, such as Defendant CareFusion, is treated as an “unincorporated association.” *See Coleman v. Chase Home Finance, LLC*, 2009 WL 1323598, at *2 (D. N.J. May 11, 2009). The “citizenship” of an “unincorporated association” is based on the state in which it was organized and where it maintains its principal place of business. *Id.* at *1; 28 U.S.C. § 1332(d)(10); *See also Abraham v. St. Croix Renaissance Grp.*,

L.L.L.P., 2012 WL 6098502, at *1 (D. V.I. Dec. 7, 2012), *aff'd sub nom. Abraham v. St. Croix Renaissance Grp., L.L.L.P.*, 719 F.3d 270 (3d Cir. 2013)¹.

17. A corporation's principal place of business is defined as the place "where a corporation's officers direct, control, and coordinate the corporation's activities," and "refers to the place where a corporation's high level officers direct, control, and coordinate the corporation's activities, i.e., its 'nerve center,'" which will typically be found at its corporate headquarters." *Hertz Corp. v. Friend*, 130 U.S. 1181, 1192-93 (2010).

18. As addressed above, CareFusion is a citizen of the State of California. (Compl., ¶ 8); (Decl. of Ed Potts, ¶¶ 4, 5). Most of the company-wide decisions relating to Defendant are made from San Diego, California. (Decl. of Ed Potts, ¶ 6). Therefore, the "nerve center" and, thus, the principal place of business of CareFusion is located in San Diego, California. *E.g. Hertz*, 130 U.S. at 1192.

19. Plaintiff Tressa is not only a resident of Pennsylvania, but he is also a citizen of Pennsylvania and is domiciled there. (Compl., ¶ 10). "The place where a man lives is properly taken to be his domicile until facts adduced establish to the

¹ "Preliminarily, we note that under CAFA, the requirement of complete diversity has been relaxed. Only one plaintiff and one defendant must be of diverse citizenship. In addition, for purposes of CAFA, the citizenship of an unincorporated association is determined like that of a corporation. We need only consider the state in which the unincorporated association was organized and where it has its principal place of business. We do not equate its citizenship, for present purposes, with the citizenship of each of its partners or members." *Abraham v. St. Croix Renaissance Grp., L.L.L.P.*, 2012 WL 6098502, at *1 (D.V.I. Dec. 7, 2012), *aff'd sub nom. Abraham v. St. Croix Renaissance Grp., L.L.L.P.*, 719 F.3d 270 (3d Cir. 2013)(citing *Carden v. Arkoma Assoc.*, 949 U.S. 185 (1990); *Zambelli Fireworks Mfg. Co. v. Wood*, 592 F.2d 412 (3d Cir. 2010); *Swiger v. Allegheny Energy, Inc.*, 540 F.3d 179 (3d Cir. 2008)).

contrary.” *Dist. of Columbia v. Murphy*, 314 U.S. 441, 455, 62 S.Ct. 303, 86 L.Ed. 329 (1941).

20. Since April 14, 1980 to present, Plaintiff Tressa has been the CEO and owner of Raymond Electronic Service, located at 42 Cooper Street, Kingston, Pennsylvania. (See Business Profile Record and Executive Profile Record attached hereto as **Exhibit A**). A report similar to Exhibit A further indicates Plaintiff Tressa lives at 42 Cooper Street, Kingston, Pennsylvania, and has in fact lived there from 1996 to present. (See Accurint Report attached hereto as **Exhibit B**). Plaintiff Tressa’s personal and professional roots in Pennsylvania span more than two decades and the facts adduced indicate his intent to remain there indefinitely. As such, Plaintiff Tressa is not just a mere resident of Pennsylvania; he is a citizen of Pennsylvania for purposes of satisfying CAFA’s diversity requirements.

21. The proposed class is defined to include “all current and former field service technician affiliates employed by Defendant” without geographical restrictions. (Compl., ¶¶ 52, 55).

22. Minimal diversity exists between CareFusion and Plaintiffs to support removal under CAFA. Defendant CareFusion is formed in Delaware and maintains its principal place of business in California. Named-plaintiff Tressa is a resident of Pennsylvania. CAFA does not require complete diversity among the parties. See 28 U.S.C. §§ 1332(d)(2)(A), (d)(5), (d)(6). CAFA requires only

minimal diversity such that only one plaintiff and only one defendant need be “citizens” of different states so long as there are 100 or more class members and an aggregate amount in controversy of at least \$5,000,000, exclusive of interest and costs. *Id.*

23. Because Plaintiffs and CareFusion are citizens of different states, this action meets CAFA’s diversity requirements.

D. The Amount in Controversy Exceeds \$5,000,000

24. CAFA authorizes the removal of class actions in which the amount in controversy for all class members exceeds \$5,000,000 exclusive of interest and costs. 28 U.S.C. § 1332(d). “The claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds” this amount. 28 U.S.C. § 1332(d)(6).

25. The removal statute requires that a defendant seeking to remove a case to federal court must file a notice “containing a short and plain statement of the grounds for removal.” 28 U.S.C. §1446(a). The United States Supreme Court in *Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 554 (2014), recognized that “as specified in section 1446(a), a defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” Only if the plaintiff contests or the court questions the allegations of the notice of removal is supporting evidence required. *Id.*

Otherwise, “the defendant’s amount in controversy allegation should be accepted” just as plaintiff’s amount in controversy allegation is accepted when a plaintiff invokes federal court jurisdiction. *Id.* at 553. “[N]o antiremoval presumption attends cases invoking CAFA.” *Id.* at 554.

26. CareFusion expressly denies any liability for the damages alleged in the Complaint, and further denies the validity and merits of Plaintiffs’ claims, the legal theories upon which they are based and the claims for monetary and other relief that flow from them. Nevertheless, and notwithstanding Plaintiffs’ failure to allege the total damages claimed, the amount in controversy based on Plaintiffs’ allegations exceeds the sum of \$5,000,000. While the Complaint does not expressly allege total damages, it does detail business expenses that Plaintiffs, and the putative class members, purportedly incurred for health insurance and benefits and wage taxes. (Compl., ¶ 33). Plaintiffs assert they each “incurred approximately \$25,000 in annual expenses.” (Compl., ¶ 35).

27. Additionally, Plaintiffs allege they are entitled to overtime compensation for all hours worked in excess of 40 per work week and/or eight hours in a work day. (Compl., ¶¶ 37-38). Plaintiffs purport that their “standard rate” of pay for work performed between 8:00 a.m. and 5:00 p.m. was \$60 per hour. (Compl., ¶ 38). While CareFusion denies the veracity of such allegations, it logically follows that any alleged overtime compensation owed to Plaintiffs and

the putative class members would be at least \$30.00 per hour applying a half-time overtime methodology, or stated differently, half of their “standard rate,” for every hour worked in excess of 40 and/or eight in a work day. In determining the amount in controversy, CareFusion can rely on the named Plaintiffs as an example of damages incurred. *Frederico v. Home Depot*, 507 F.3d 188, 198-199 (3d Cir. 2007).

28. Plaintiffs allege there are in excess of 100 putative class members. (Compl., ¶ 55). The statute of limitations for an unjust enrichment claim is three years. *See Hydrogen Master Rights, Ltd. v. Weston*, 228 F. Supp. 3d 320, 336 (D. Del. 2017)(applying Delaware law); *F.D.I.C. v. Dintino*, 167 Cal. App. 4th 333, 348, 84 Cal. Rptr. 3d 38, 50 (2008)(applying three year statute of limitation to unjust enrichment claim pursuant to California Code of Civil Procedure § 338). Conservatively assuming each putative class member was contracted to perform work for only two years, so one year less than the applicable statute of limitations, and using only the amounts alleged in the Complaint for purported unreimbursed business expenses, the total amount in controversy is \$5,000,000. ($\$25,000 \times 100 \times 2 = \$5,000,000$).

29. CAFA instructs federal courts to determine whether the amount in controversy of a class action exceeds the \$5 million threshold by aggregating the claims of the individual class members. 28 U.S.C. § 1332(d)(6). If the above

calculation is revised to assume each putative class member was contracted to perform work for the full three year statute of limitation, the amount easily exceeds \$5,000,000. ($\$25,000 \times 100 \times 3 = \$7,500,000$). Notably, these calculations do not include Plaintiffs' alleged damages for unpaid overtime, which, if included, would only increase the amount in controversy further beyond CAFA's \$5,000,000 threshold.

30. Moreover, Plaintiffs also seek attorneys' fees. It is well-settled that attorneys' fees are to be aggregated and considered for purposes of determining the amount in controversy under the CAFA. *Frederico v. Home Depot*, 507 F.3d 188, 197 (3d Cir. 2007) ("Moreover, Plaintiff also seeks attorneys' fees, which can exceed six figures in a class action and are properly aggregated and considered for purposes of determining the amount in controversy under CAFA."); *see also Suber v. Chrysler Corp.*, 104 F.3d 578, 585 (3d Cir.1997) ("Moreover, in calculating the amount in controversy, we must consider potential attorneys' fees."); *Raspa v. Home Depot*, 533 F. Supp. 2d 514, 522 (D.N.J. 2007) ("This Court must also consider attorney's fees, which can be significant.").

31. Courts in the Third Circuit have applied a 30% benchmark for attorneys' fees when calculating the amount in controversy. *Frederico*, 507 F.3d at 199 ("Fees could be as much as thirty percent of the judgment."); *See In re Rite Aid Corp. Securities Litigation*, 396 F.3d 294, 303 (3d Cir.2005) (noting study

done by the Federal Judicial Center that found a median percentage recovery range of 27–30% for all class actions resolved or settled over a four-year period). Conservatively assuming the putative class members only contracted to perform work for two years and applying a damages estimate of \$25,000 per putative class member, as demonstrated above, the amount in controversy is \$5,000,000. However, taking into account attorneys’ fees at the benchmark percentage of 30% further increases the amount in controversy by \$1,500,000 for a total amount in controversy of \$6,500,000. ($\$5,000,000 \times 0.3 = \$1,500,000$ and $\$5,000,000 + \$1,500,000 = \$6,500,000$). Again, this amount does not consider Plaintiff’s alleged damages related to overtime compensation.

32. A “class action” is defined as “any civil action filed under Rule 23 of the Federal Rules of Civil Procedure or similar state statute or rule of judicial procedure.” 28 U.S.C. § 1332(d)(1)(B). Class members are “the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.” 28 U.S.C. § 1332(d)(1)(D). Thus, a putative class action, such as the instant case, satisfies CAFA’s amount in controversy requirement where (1) the action was filed under Rule 23 or a similar state statute or rule, and (2) the aggregated claims of the putative class members amount to more than \$5,000,000. When analyzing the amount in controversy requirement, “Section 1332(d)(6) tells the District Court to determine whether it has jurisdiction by adding up the value of

the claim of each person who falls within the definition of [the] proposed class and determine whether the resulting sum exceeds \$5 million.” *Standard Fire Ins. Co. v. Knowles*, 568 U.S. 588, 592 (2013). If after engaging in this analysis, the resulting sum exceeds \$5,000,000, the Court has jurisdiction. *Id.*

33. Because the named Plaintiffs and CareFusion are diverse, the putative class contains at least 100 members, and the amount in controversy exceeds \$5,000,000, exclusive of interest and costs, this Court has original diversity jurisdiction pursuant to the CAFA.

V. CAREFUSION SATISIFES THE PROCEDURAL REQUIREMENTS FOR REMOVAL

A. Status of Process, Pleadings, and Orders

34. Plaintiffs filed a First Amended Complaint (the “Complaint”) on April 10, 2018, designated Case Number N17C-10-199 MMJ, in the Superior Court of the State of Delaware. A true and correct copy of the Amended Complaint is included as **Exhibit C**.

35. Service of the Complaint was contemporaneous with the filing of the Complaint on April 10, 2018. Pursuant to 28 U.S.C. § 1441(a), Exhibit C constitutes a copy of “all process, pleadings, and orders served” upon CareFusion. To CareFusion’s knowledge, no other further process, pleadings, or orders related to this case have been filed in the Superior Court for the State of Delaware.

B. Timeliness of Removal

36. An action may be removed from state court by filing a notice of removal, together with a copy of all process, pleadings, and orders served on the defendant, within 30 days of defendant receiving the initial pleading. *See* 28 U.S.C. § 1446(b); *Murphy Bros, Inc. v. Mitchetti Pipe Stringing, Inc.*, 526 U.S. 344, 354 (1999) (the 30-day removal period runs from the service of the summons and complaint).

37. The Amended Complaint is the initial pleading under the revival exception.

38. Removal is proper under the revival exception which recognizes that the right to remove is revived when: (1) an amended complaint “so changes the nature of [the] action as to constitute substantially a new suit,” or (2) plaintiff sought to mislead the defendant about the true nature of the suit, thereby dissuading the defendant from removing it, and then, after the time for removal has expired, amending the complaint to assert “true and weighty” federal claims. *See Wilson v. Intercollegiate (Big Ten) Conference Athletic Association*, 668 F.2d 962 (7th Cir. 1982)²; *See also Johnson v. Heublein Inc.*, 227 F.3d 236 (5th Cir. 2000);

² “If a pleading amendment provides a new basis for removal or changes the character of the litigation so as to make it substantially a new suit. This seems quite appropriate since a willingness on the part of the defendant to remain in state court to litigate a particular claim should not be interpreted as a willingness to remain in state court to adjudicate an entirely different claim.” § 3731 Procedure for Removal—Time for Seeking Removal, 14C Fed. Prac. & Proc. Juris. § 3731 (4th ed.)

In re Savers Federal Sav. & Loan Ass'n, 872 F.2d 963 (11th Cir. 1989). Because the Amended Complaint changes the nature of the action as to constitute a substantially new suit, removal is appropriate and timely.

39. Removal of this action is timely because Notice has been filed within 30 days from April 10, 2018, and within one year of filing of the Amended Complaint. 28 U.S.C. § 1446(b). As such, the thirty-day period for removal ends on May 10, 2018.

C. Notice to Plaintiffs and State Court

40. Pursuant to 28 U.S.C. § 1446(d), contemporaneous with the filing of this Notice, CareFusion has served a copy of this Notice upon Plaintiffs' counsel of record and has filed a copy of this Notice in the Superior Court for the State of Delaware.

41. CareFusion is prepared to submit further evidence supporting this Notice of Removal should Plaintiffs move to remand.

42. CareFusion consents to removal of this action.

43. CareFusion reserves all defenses.

WHEREFORE, Defendant, CareFusion Solutions, LLC, having met all statutory requirements of removal pursuant to the CAFA, hereby removes this action pending against it in the Superior Court for the State of Delaware.

SAUL EWING ARNSTEIN & LEHR LLP

/s/ Elizabeth S. Fenton

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Danielle N. Petaja (#6372)
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Dated: May 7, 2018

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Business Profile Record

Source Information

Information Current Through: 04/24/2018
Database Last Updated: 04/25/2018
Update Frequency: MONTHLY
Current Date: 04/27/2018

Business Description:

Primary SIC Code: 7622 RADIO AND TELEVISION REPAIR SHOPS
Primary NAICS Code: 811211 CONSUMER ELECTRONICS REPAIR AND MAINTENANCE

Business Information

Business Name: RAYMOND ELECTRONICS
Primary Address: 42 COOPER ST
KINGSTON, PA
18704-1802
County: LUZERNE
Country: USA
Business Phone: 570-822-2933
Business Fax: 570-822-2933
E-Mail: francistressa@verizon.net
Web Address: raymondjames.com
Year Established: 1962
Employees at Location (Year): 3
Sales from Location (Year): \$180,000 (2016)

Executive Information

Contact: FRANCIS TRESSA
Contact's Title: OWNER

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Executive Profile Record

Source Information

Information Current Through: 05/05/2016
Database Last Updated: 11/16/2016
Update Frequency: SEMI-ANNUAL
Current Date: 04/27/2018
Source: Data by Infogroup, Copyright © 2018, All Rights Reserved.

Executive Information

Executive Name: FRANCIS TRESSA
Gender: MALE
Age: 68
Marital Status: UNKNOWN

Executive Business Information

Business Name: RAYMOND ELECTRONICS
Executive Title: OWNER
Address: 42 COOPER ST KINGSTON, PA 18704-1802
Business Phone: 570-822-2933
County: LUZERNE
Employees at Location: 1 - 4 EMPLOYEES
Sales from Location: LESS THAN \$500,000
Primary SIC: 762202 TELEVISION & RADIO-SERVICE/ REPAIR

Executive Household Information

Address: 42 COOPER ST KINGSTON, PA 18704-1802
Location Type: SINGLE FAMILY DWELLING
Occupancy Type: CONFIRMED HOMEOWNER
Home/Personal Phone: 570-288-3393
County: LUZERNE

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Your DPPA Permissible Use: Civil, Criminal, Administrative, or Arbitral Proceedings




Your GLBA Permissible Use: Use by Persons Holding a Legal or Beneficial Interest Relating to the Consumer

Your DMF Permissible Use: Legitimate Business Purpose Pursuant to a Law, Government Rule, Regulation, or Fiduciary Duty

Comprehensive Report

Date: 04/26/18
Reference Code:

Report Legend:

-  - Shared Address
-  - Deceased
-  - Probable Current Address

Report processed by:

LITTLER MENDELSON, PC
2301 MCGEE STREET
KANSAS CITY, MO 64108
816-772-0600 Main Phone

Subject Information

(Best Information for Subject)

Name: FRANCIS G TRESSA
Date of Birth: 1945
Age: 73
SSN: issued in Pennsylvania
between 1/1/1968 and 12/31/1969

AKAs

(Names Associated with Subject)

FRANCIS TRESSA
SSN:
FRANCIS TRESSA
SSN:

Indicators

Bankruptcy: No
Property: No
Corporate Affiliations: No

Comprehensive Report Summary:

- Bankruptcies: None Found
- Liens and Judgments: None Found
- UCC Filings: None Found
- Phones Plus: None Found
- Driver's License: None Found
- Address(es) Found: 0 Verified and 1 Non-Verified Found
- Possible Properties Owned: None Found
- Motor Vehicles Registered: None Found
- Possible Criminal Records: None Found

Comprehensive Report

Sexual Offenses:

None Found

Professional Licenses:

None Found

Voter Registration:

None Found

Concealed Weapons Permit:

None Found

Possible Associates:

None Found

DEA Controlled Substances:

None Found

Possible Relatives:

1st Degree - 2 Found

2nd Degree - None Found

3rd Degree - None Found

Neighbors:

1st Neighborhood - 2 Found

Address Summary:

42 COOPER ST, KINGSTON, PA 18704-1802, LUZERNE COUNTY (Jan 1996 - Jan 2018)

Active Address(es):

[None Found]

Comprehensive Report

Previous And Non-Verified Address(es):

42 COOPER ST, KINGSTON, PA 18704-1802, LUZERNE COUNTY (Jan 1996 - Jan 2018)

Name Associated with Address:

FRANCIS TRESSA

Current Residents at Address:

FRANCIS G TRESSA

TRESSA FRANCIS

Property Ownership Information for this Address

Property:

Parcel Number - 5200G9S1006032

Owner Name: TRESSA BARBARA

Property Address: - 42 COOPER ST, KINGSTON, PA 18704-1802, LUZERNE COUNTY

Owner Address: 42 COOPER ST, KINGSTON, PA 18704-1802, LUZERNE COUNTY

Legal Description - LAND: 40X130 / IMPR: R1 16X26 ETC

Data Source - A

Neighborhood Profile (2010 Census)

Average Age: 47

Median Household Income: \$49,063

Median Owner Occupied Home Value: \$94,348

Average Years of Education: 13

Bankruptcies:

[None Found]

Liens and Judgments:

[None Found]

UCC Filings:

[None Found]

Phones Plus:

[None Found]

Driver's License Information:

[None Found]

Possible Properties Owned by Subject:

[None Found]

Motor Vehicles Registered To Subject:

[None Found]

Possible Criminal Records:

[None Found]

Sexual Offenses:

[None Found]

Professional License(s):

[None Found]

Voter Registration:

[None Found]

Concealed Weapons Permit:

[None Found]

Firearms and Explosives:

[None Found]

DEA Controlled Substances:

[None Found]

IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE

STEVE WARD and FRANCIS TRESSA,)
individually and on behalf of all other)
similarly situated persons,)
)
Plaintiffs,)
)
v.)
)
CAREFUSION SOLUTIONS, LLC,)
)
Defendant.)

Case No. N17C-10-199 MMJ
CLASS ACTION
DEMAND FOR JURY TRIAL

FIRST AMENDED COMPLAINT

Plaintiffs Steve Ward and Francis Tressa, individually and on behalf of all other similarly situated field service technician affiliates, for their First Amended Class Action Complaint against Defendant CareFusion Solutions, LLC, state and allege as follows:

Introduction

1. Defendant CareFusion Solutions, LLC (“Defendant” or “CareFusion”) sells, leases, licenses, and services Pyxis MedStation systems, Pyxis SupplyStation systems, and other healthcare products including infusion and medication safety technologies, respiratory equipment, and automated medical supply dispensing devices (collectively, “CareFusion Products”).

2. Plaintiffs and the members of the class they seek to represent are individuals who have been hired by Defendant as independent contractors to provide repair and maintenance services on CareFusion Products located at Defendant’s customers’ facilities.

3. Despite referring to itself as a “separate business entity,” Defendant regulates significant aspects of Plaintiffs’ work, as described herein, to the extent that Defendant is properly considered their employer.

4. Pursuant to the choice of law clause contained in the Maintenance and Service Agreements that Defendant requires them to sign, the lack of conflict between state laws regarding

unjust enrichment, and California having the most significant relationship to the parties' employment relationship, Plaintiffs bring this lawsuit as a class action under California law (or, in the alternative, Delaware law) to recover the substantial benefits they conferred on Defendant to their detriment.

Jurisdiction and Venue

5. This Court is vested with subject-matter jurisdiction concerning the claims herein pursuant to Article IV, § 7 of the *Delaware Constitution of 1897*, as amended, and 10 *Del. C.* § 541.

6. This Court has jurisdiction over this matter because Plaintiff Ward is a resident of this State, Defendant is a resident of this State, and Plaintiff Ward performed work for Defendant in this State.

7. Venue in this State is proper under as Defendant is incorporated in this State; Defendant sells, leases, licenses, and services CareFusion Products in this State; and a substantial part of the events giving rise to the claims herein occurred in this State.

Parties

8. Defendant CareFusion Solutions, LLC is a Delaware limited liability company which maintains its principal place of business in San Diego, California. It directs, controls, and makes decisions relating to field service technician affiliates from its California headquarters. On information and belief, Defendant's sole member is Becton Dickinson, a Delaware corporation which maintains its principal place of business in Franklin Lakes, New Jersey.

9. Plaintiff Steve Ward is a resident of Dover, Delaware. Since approximately 2005, Mr. Ward has been employed by Defendant as a field service technician affiliate.

10. Plaintiff Francis Tressa is a resident of Pringle, Pennsylvania. Since approximately 1997, Mr. Tressa has been employed by Defendant as a field service technician affiliate.

General Allegations

11. Defendant sells, leases, and licenses CareFusion Products to customers across the country.

12. Defendant requires its customers to use its technicians to repair and maintain CareFusion Products.

13. Defendant employs field service technicians, including Plaintiffs, to repair and maintain CareFusion Products.

14. Field service technicians, including Plaintiffs, perform services directly within the usual course of the business of Defendant, which includes selling, leasing, and licensing CareFusion Products, as well as repairing and maintaining them.

15. Although Defendant directly employs some of its field service technicians (hereinafter, the “W2 Technicians”), Defendant improperly classifies others, including Plaintiffs, as independent contractors.

16. Defendant refers to these field service technicians as “affiliates.”

17. Upon information and belief, Plaintiffs and the class members have the following contacts with California regarding their claims in this case:

- a. Defendant made the decision to classify affiliates as independent contractors rather than employees in California;
- b. Defendant set its pay and expense policies for affiliates in California;
- c. Affiliates are required to attend training in California at their own expense before working for Defendant;

- d. Affiliates are trained in California;
- e. Defendant controls, directs and supervises the work of the affiliates from California;

18. Despite having the same job duties as the W2 Technicians, Defendant requires affiliates, including Plaintiffs, to sign Maintenance and Service Agreements (“Agreements”).

19. Defendant’s Agreements contain a choice of law clause that applies California law.

20. The Agreements are contrary to public policy and/or violate express mandate of one or more statutes, and are therefore, void and/or unenforceable.

21. Defendant’s affiliates are properly considered employees of CareFusion for several reasons including, but not limited to, the following:

- a. Defendant exerts substantial control over its affiliates by requiring them to, among other things:
 - i. agree to Defendant’s policies and procedures;
 - ii. appear at Defendant’s customers’ sites within CareFusion’s Guaranteed Response Times;
 - iii. remain “on-call” pursuant to Defendant’s policies even when not actively working for Defendant;
 - iv. provide repair and maintenance services specified by Defendant;
 - v. follow Defendant’s reporting requirements;
 - vi. purchase or maintain certain equipment, including an office with high speed internet access and a computer and/or laptop compatible with CareFusion’s designated systems;
 - vii. agree to submit to background checks and drug screens by Defendant;

- viii. complete Defendant's required trainings and certifications;
 - ix. follow Defendant's professional dress requirements; and
 - x. maintain insurance specified by Defendant, and name CareFusion as an additional insured;
- b. Defendant's affiliates are not engaged in a different occupation or business from CareFusion, as one of Defendant primary business functions is selling, licensing, and leasing CareFusion Products, and Defendant requires its customers to use CareFusion field service technicians to repair and maintain such products;
 - c. The work of medical equipment technicians, like affiliates, is usually done under the direction of the seller, licensor, and/or lessor of the equipment, like CareFusion here;
 - d. Although affiliates are required to have certain skills, they are specifically trained to repair and maintain CareFusion Products in their employment with Defendant;
 - e. Defendant provides its affiliates all parts required to repair and maintain CareFusion Products, and the parts remain the property of Defendant;
 - f. Affiliates' work for Defendant is not for a pre-determined job or customer;
 - g. Affiliates typically work for Defendants for years;
 - h. Defendant maintains the right to hire affiliates and the right to terminate them with notice;
 - i. Defendant pays its affiliates based on the time they spend repairing and maintaining CareFusion Products, not by job;

- j. Defendant does not pay affiliates for their required on-call time; and
- k. Affiliates' work is a part of the regular business of CareFusion.

22. Defendant's affiliates are properly considered employees of CareFusion for several additional reasons including, but not limited to, the following:

- a. Defendant sets where and when affiliates provide service, and affiliates are not permitted to provide service unless expressly requested directly by CareFusion;
- b. Defendant requires affiliates to be available to perform service 24 hours a day, seven days a week;
- c. Defendant reserves the right to assign a regularly scheduled shift to affiliates outside of 8:00 a.m. to 5:00 p.m.;
- d. Defendant sets the manner, rate, and timing by which affiliates are paid;
- e. Affiliates are economically dependent on Defendant;
- f. Affiliates' earnings do not depend upon their judgment or initiative, but on Defendant's need for their work;
- g. Affiliates do not share in the profits of the business or control the factors that affect the volume of maintenance service requests, such as advertising, quality of others' work, or auditing;
- h. Affiliates do not undertake significant risks associated with an independent business and therefore cannot suffer a business loss other than a loss in earnings;
- i. Defendant's investment into the equipment that it provides to affiliates and which are necessary for them to perform their work far outweighs affiliates' individual investments into the other instrumentalities necessary to perform their work for Defendant; and

j. Affiliates are not permitted to utilize subcontractors to perform any repair or maintenance work unless expressly permitted in writing by Defendant.

23. Despite these facts, Defendant does not classify affiliates as employees or comply with the California Labor Code and/or, in the alternative, other applicable labor codes with respect to affiliates. This renders the Agreements violative of public policy and/or against the mandate of one or more statutes.

24. Specifically, Defendant does not reimburse affiliates for the business expenses they incur for the benefit of CareFusion, pay them their required overtime, or confer the same financial benefits to the affiliates that it does for the W2 Technicians.

25. Affiliates, including Plaintiffs, incur business expenses for the benefit of Defendant that are not reimbursed.

26. Defendant requires affiliates to maintain and pay for safe, legally-operable, and insured automobiles when driving to and from its customers' sites.

27. As a result, affiliates incur costs for gasoline, vehicle parts and fluids, repair and maintenance services, insurance, depreciation, and other expenses for the primary benefit of Defendant.

28. Defendant also requires affiliates to maintain and pay for specific insurance, including, but not limited to, general liability or umbrella insurance, automobile liability insurance, worker's compensation insurance, products or completed operations liability insurance, and professional liability insurance.

29. Defendant additionally requires affiliates to pay for training and certifications.

30. Defendant further requires affiliates to purchase and/or maintain items to perform their work, including, but not limited to, laptops, wireless hotspots, and cell phones.

31. Defendant requires affiliates to be available 24 hours a day, thereby precluding – or substantially limiting – affiliates’ ability to obtain additional employment.

32. Upon information and belief, the W2 Technicians are not required to maintain such availability. Upon information and belief, W2 Technicians may either find additional work and/or enjoy guaranteed time off without interruption.

33. Finally, Defendant’s misclassification of affiliates as independent contractors requires affiliates to purchase their own health insurance and other benefits, including but not limited to retirement benefits and the benefit of Defendant-paid wage taxes.

34. Upon information and belief, W2 Technicians receive these benefits – or receive substantial contributions from Defendant to pay for, in part, these benefits.

35. During relevant times, and to the best of Plaintiffs’ recollections, Plaintiffs incurred approximately \$25,000 in annual expenses for Defendant’s benefit.

36. Upon information and belief, Defendant’s other affiliates were required to incur similar expenses.

37. Affiliates, including Plaintiffs, also do not receive their required overtime pay for hours worked in excess of 40 hours per workweek and/or eight hours per day.

38. During relevant times, Plaintiffs were paid approximately \$60 per hour, their “standard rate,” for repair and maintenance services performed for Defendant’s customers between 8:00 am and 5:00 pm Monday through Friday. They received approximately \$90 per hour, their “overtime rate,” for repair and maintenance services performed for Defendant’s customers performed outside these hours and on weekends. And they received approximately \$40 per hour for preventative maintenance and “special service projects.”

39. Defendant’s other affiliates were paid similarly.

40. Upon information and belief, W2 Technicians receive overtime pay.
41. Defendant did not pay affiliates for administrative work or weekly meetings with managers and employee field service technicians.
42. Upon information and belief, W2 Technicians are paid for such work.
43. Defendant also did not pay affiliates for travel time and/or overtime pay for preventative maintenance or special service projects.
44. Upon information and belief, W2 Technicians are paid for such work.
45. Defendant did not pay affiliates for their on-call time.
46. Considering this unpaid time, Plaintiffs, on occasion, worked more than 40 hours per workweek approximately 10 weeks per year during relevant time periods.
47. Upon information and belief, Plaintiffs worked more than eight hours in a day approximately 30 times per year during relevant time periods.
48. Upon information and belief, Defendant's other affiliates worked similar amounts.
49. During relevant times, Defendant systematically failed to reimburse Plaintiffs and its affiliates for business expenses.
50. During relevant times, Defendant also systematically failed to pay Plaintiffs overtime for hours worked in excess of 40 hours per workweek and/or eight hours per day.
51. The net effect of Defendant's policies and practices is that CareFusion has been unjustly enriched by classifying Plaintiffs and other affiliates as independent contractors rather than classifying them as employees and paying them properly.

Class Action Allegations

52. Plaintiffs bring their claims as a class action pursuant to Del. Super. Ct. R. Civ. P. 23, on behalf of themselves and as the Class Representative of the following persons (the "Class"):

All current and former field service technician affiliates employed by Defendant at any time during the three years preceding the filing of this Complaint.

53. These claims, if certified for class-wide treatment, are brought on behalf of all similarly situated persons who do not opt-out of the Class.

54. Plaintiffs' claims satisfy the numerosity, commonality, typicality, adequacy, predominance and superiority requirements of a class action pursuant to Del. Super. Ct. R. Civ. P. 23.

55. The Class sought in Plaintiffs' claims satisfy the numerosity standard as it consists of at least one hundred persons who are geographically dispersed and, therefore, joinder of all Class members in a single action is impracticable.

56. Questions of fact and law common to the Class sought in these claims predominate over any questions affecting only individual members. The questions of law and fact common to the Class arising from Defendant's actions include, without limitation:

- a. Whether Defendant improperly classified them as independent contractors;
- b. Whether Defendants were unjustly enriched by misclassifying Plaintiffs as independent contractors.

57. Plaintiffs and Class members have been subject to similar policies and procedures imposed by Defendant regarding the scope of their work. Further, they have been subject to Defendant's policy of failing to reimburse for business expenses, failing to pay overtime, and/or failing to confer the same financial benefits to its affiliates as it does for service technicians Defendant properly classifies as employees.

58. The questions set forth above predominate over any questions affecting only individual persons, and a class action is superior with respect to considerations of consistency,

economy, efficiency, fairness, and equity to other available methods for the fair and efficient adjudication of Plaintiffs' claims.

59. Plaintiffs' claims are typical of those of the Class sought in that:

- a. They have worked as affiliates for Defendant;
- b. They have performed repair and maintenance services for Defendant's customers;
- c. Defendant has misclassified them as independent contractors;
- d. They have been subject to the similar policies and procedures imposed by Defendant regarding the scope of their work; and
- e. They have been subject to Defendant's same policy of failing to reimburse for business expenses, failing to pay overtime, and failing confer upon them the same financial benefits it confers upon its W2 Technicians.

60. Plaintiffs are adequate representative of the Class sought in these claims because they are members of the Class and their interests do not conflict with the interest of the members of the Class they seek to represent. The interests of the members of the Class sought in these claims will be fairly and adequately protected by Plaintiffs and the undersigned counsel, who have extensive experience prosecuting complex wage and hour, employment, and class action litigation.

61. Maintenance of the claims as a class action is superior to other available methods for fairly and efficiently adjudicating the controversy as members of the Class have little interest in individually controlling the prosecution of separate class actions, no other litigation is pending over the same controversy, it is desirable to concentrate the litigation in this Court due to relatively small recoveries per member of the Class, and there are no material difficulties impairing management of a class action.

62. It would be impracticable and undesirable for each member of the Class sought in Plaintiffs' claims who suffered harm to bring a separate action. In addition, the maintenance of separate actions would place a substantial and unnecessary burden on the courts and could result in inconsistent adjudications, while a single class action can determine, with judicial economy, the rights of all Class members.

COUNT I – UNJUST ENRICHMENT

63. Plaintiffs repeat and re-allege the allegations contained in every preceding paragraph as if fully set forth herein.

64. At all times relevant hereto, Defendant wrongfully classified Plaintiffs and members of the Class as independent contractors.

65. Plaintiffs and members of the Class conferred upon Defendant unjust benefits as a result of their status as independent contractors.

66. Defendant accepted or retained the benefits conferred by Plaintiffs and members of the Class, with full knowledge and awareness that misclassifying Plaintiffs and members of the Class as independent contractors, Plaintiffs and members of the Class were not receiving the financial and other benefits that they were entitled (the financial and other benefits Defendant conferred upon its W2 Technicians).

67. Defendant has been unjustly enriched in retaining revenue derived from Plaintiffs and member of the Class being wrongfully classified as independent contractors.

68. Plaintiffs have been concomitantly impoverished, particularly when comparing Plaintiffs' financial and other benefits against the W2 Technicians financial and other benefits.

69. Upon information and belief, the W2 Technicians receive substantially more financial and other benefits, which are detailed herein, in comparison with Plaintiffs and members of the Class.

70. Retaining the benefits conferred upon Defendant by Plaintiffs and members of the Class under these circumstances make Defendant's retention of the benefits unjust and inequitable. Thus, Defendant must pay restitution and all other lawful economic damages, as well as reasonable costs and attorneys' fees and pre and post-judgment interests, to Plaintiffs and members of the Class for its unjust enrichment as ordered by the Court.

71. Plaintiffs and members of the Class have no adequate remedy at law.

DEMAND FOR JURY TRIAL

Plaintiffs hereby request a trial by jury of all issues triable by jury.

Respectfully submitted,

**LAW OFFICE OF
DANIEL C. HERR LLC**

DATED: April 10, 2018

/s/ Daniel C. Herr
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Attorneys for Plaintiffs and

the Proposed Class

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

STEVE WARD and FRANCIS TRESSA,)
Individually and on behalf of all other)
similarly situated persons,)

Plaintiffs,)

v.)

CAREFUSION SOLUTIONS, LLC,)

Defendant.)

Civil Action No.

**DECLARATION OF ED
POTTS IN SUPPORT OF
DEFENDANT’S NOTICE TO
FEDERAL COURT OF
REMOVAL OF CIVIL
ACTION PURSUANT TO §§
1332, 1441, 1446**

DECLARATION OF ED POTTS

I, Ed Potts, declare the following:

1. I have personal knowledge of the facts set forth in this declaration, or I have knowledge of such facts based on my review and knowledge of the business records and files of Defendant CareFusion Solutions, LLC (“Defendant” or “CareFusion”), and I could testify to the same if called as a witness in this matter.

I make this Declaration in support of Defendant CareFusion Solutions, LLC’s Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

2. I am currently the Workforce Optimization Manager for Defendant.

3. In my position, my current job duties include, but are not limited to, administering the independent contractor agreements for companies who provide maintenance and repair services for certain CareFusion products. As a result, I am

readily familiar with CareFusion's day-to-day business operations and have access to information and reports maintained and generated in the ordinary course of business concerning CareFusion's independent contractors and operations.

4. Defendant CareFusion Solutions, LLC was at the time of filing this action, and still is, a limited liability company organized under the laws of the State of Delaware.

5. Defendant CareFusion Solutions, LLC maintains its principal place of business in San Diego, California at 3750 Torrey View Court. Most of the corporate decisions relating to CareFusion Solutions, LLC, are made from San Diego, California.

6. CareFusion is a medical-technology company that specializes in development of patient safety-focused medical devices such as infusion pumps and automated medication administration cabinets.

7. CareFusion sells, leases, and licenses such devices to hospitals and to medical facilities throughout the United States.

8. To provide maintenance and repair services for this equipment, CareFusion contracts with independent contractors, and refers to them as "affiliates."

9. The affiliates sign a Maintenance and Service Agreement pertaining to such maintenance and repair services. Sections 12 and 21 of the Maintenance

and Service Agreements provide that the affiliates' companies may provide maintenance services to CareFusion's customers on an independent contractor basis.

10. The Maintenance Service Agreements are signed by the independent contractors on behalf of their own companies.

11. Plaintiff Ward's company, Computers RX Ltd. has been contracted with CareFusion Solutions, LLC, since at least May 1, 2013.

12. Plaintiff Tressa's company, Raymond Electronic Services has been contracted with CareFusion Solutions, LLC, since at least November 11, 2009.

13. Nowhere do the Maintenance and Service Agreements mandate that the work is to be performed in California. To the contrary, the current Maintenance and Service Agreements in place with CareFusion Solutions, LLC, cover territories in 28 cities in 22 states.

I hereby declare under penalty of perjury and the laws of the United States and the State of California that the foregoing statements are true and correct.

Executed this 4TH day of May 2018, at San Diego, California.



Ed Potts
CareFusion Solutions, LLC

JS 44 (Rev. 06/17)

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.)

<p>I. (a) PLAINTIFFS STEVE WARD and FRANCIS TRESSA Individually and on behalf of all other similarly situate persons</p> <p>(b) County of Residence of First Listed Plaintiff <u>Kent, DE</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) Daniel C. Herr, Esquire (#5497) 1225 N. King Street, Suite 1000 Wilmington, DE 19801</p>	<p>DEFENDANTS CAREFUSION SOLUTIONS, LLC.</p> <p>County of Residence of First Listed Defendant <u>San Diego, CA</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known) Elizabeth S. Fenton (#5563) SAUL EWING ARSTEIN & LEHR LLP 1201 N. Market Street, Suite 2300 Wilmington, DE 19801</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	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 checked="" type="checkbox"/> 4	Citizen of Another State	<input checked="" 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
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Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
			PROPERTY RIGHTS	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
			LABOR	
			SOCIAL SECURITY	
			<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
			IMMIGRATION	
			<input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input checked="" type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p>Habeas Corpus:</p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty		
		<p>Other:</p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

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):
28 U.S.C. §1332(d) and 28 U.S.C. §§ 1441 and 1446

Brief description of cause:
Independent contractor/Plaintiff seeks payment for overtime and expenses

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

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 05/07/2018 SIGNATURE OF ATTORNEY OF RECORD: /s/ Elizabeth S. Fenton (#5563)

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

CERTIFICATE OF SERVICE

I hereby certify that the within Notice of Removal of State Court Action to United States District Court was filed via CM/ECF with the United States District Court for the District of Delaware.

I further certify that a copy of the within Notice of Removal was filed via File & Serve Xpress, with the Prothonotary, Superior Court, New Castle County Courthouse, and on counsel of record for Plaintiffs, Steve Ward and Francis Tressa. I further certify that on May 7, 2018, a copy of the foregoing was delivered via email and First Class United States Mail to Plaintiff as follow:

Steve Ward and Francis Tressa
c/o Daniel Herr, Esquire
1225 N. King Street, Suite 1000
Wilmington, DE 19801
dherr@dherrlaw.com

/s/ Elizabeth S. Fenton
Elizabeth S. Fenton (#5563)

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: CareFusion Solutions Denies Technicians Proper Compensation](#)
