

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JOSEPH HARDESTY,
7733 Anderson Oaks Drive
Cincinnati, OH, 45255

: Case No. 16-298
:
: Judge _____
:

and

DEREK CHIPMAN,
1002 Wermeling Lane
Elsmere, KY, 41018

:
: COLLECTIVE ACTION AND CLASS
: ACTION COMPLAINT
:
: JURY DEMAND ENDORSED
: HEREON
:

and

MADELINE HICKEY,
1711 Mills Avenue
Cincinnati, OH, 45212

Individually and on behalf of All
Other Similarly Situated Employees of
Defendants,

Plaintiffs,

v.

THE KROGER CO.,
1014 Vine Street
Cincinnati, OH 45202

Statutory Agent:
CSC-Lawyers Incorporating Service
(Corporation Service Company)
50 W. Broad St. Suite 1800
Columbus, OH 43215

And

KROGER G.O., LLC,
1014 Vine Street
Cincinnati, OH 45202

Statutory Agent:
CSC-Lawyers Incorporating Service

(Corporation Service Company) :
50 W. Broad St. Suite 1800 :
Columbus, OH 43215 :

Defendants.

Now come Plaintiffs Joseph Hardesty, Madeline Hickey, and Derek Chipman (“Plaintiffs”), by and through counsel, and bring this action against Defendant Kroger G.O., LLC, and The Kroger Co., Inc. (hereinafter “Defendant” or “Kroger”), under the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.* (“FLSA”), and applicable Ohio state laws, to recover unpaid overtime compensation for themselves and on behalf of the class.

I. PRELIMINARY STATEMENT

Plaintiffs, on behalf of themselves and all other similarly-situated employees of Kroger, bring this FLSA action as a collective action, and, with respect to an Ohio class, bring a Rule 23 Class Action under Ohio law, against Kroger seeking appropriate monetary, and declaratory relief based on Defendant’s willful failure to compensate employees for overtime work as required under the FLSA, 29 U.S.C. §§ 201, *et seq.*, and the Ohio Minimum Fair Wage Standards Act (“OMFWSA”), O.R.C. §§ 4111.01, *et seq.* Plaintiffs sue as individuals, and as representatives under the collective action provisions of 29 U.S.C. § 216(b), and, with respect to Ohio employees, as individuals and representatives of a class action under O.R.C. §§ 4111.03, 4111.10 and 4113.15. In particular, Plaintiffs allege that Defendant misclassified Plaintiffs and the class they seek to represent as exempt employees, and have failed to pay the Plaintiffs and the class they seek to represent the additional hourly pay and overtime compensation to which they are entitled under both federal and state law.¹

II. JURISDICTION AND VENUE

¹ Plaintiffs’ Consents to Participate in the Collective Action are attached as Exhibit A.

1. This action arises under the statutes of the United States for violation of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, *et seq.*

2. Under the provisions of 29 U.S.C. § 216(b), this Court has jurisdiction over this matter as an action brought by Plaintiffs as individuals, and as a collective action brought by Plaintiffs on behalf of all current and former similarly-situated employees of Kroger’s Center of Recruiting Excellence (“CoRE Center”) in Blue Ash, Ohio.

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because this action arises under a Federal Statute, 29 U.S.C. § 216(b).

4. This Court has jurisdiction over Plaintiffs’ state claims pursuant to 28 U.S.C. § 1367.

5. Defendant Kroger is subject to personal jurisdiction in the State of Ohio because it is incorporated in Ohio, its principal place of business is in Ohio, and it transacts business and employs a significant number of employees within the State of Ohio. O.R.C. § 2307.382.

6. Venue is proper in the Southern District of Ohio pursuant to 28 U.S.C. § 1391 because Kroger’s principal place of business is within this District in the State of Ohio, Kroger conducts business within this District in the State of Ohio, all of the acts outlined within this Complaint occurred in this District in the State of Ohio, and all Plaintiffs were employed within this District in the State of Ohio.

III. PARTIES

7. Plaintiffs are filing this action as individuals and as named representatives in a collective action on behalf of themselves and all other similarly-situated current and former Kroger employees. Plaintiffs’ written consent forms for bringing this action to collect unpaid wages, including unpaid overtime wages are attached as Exhibit A.

8. Plaintiff Joseph Hardesty is an individual residing in Hamilton County, Ohio. He was employed by Kroger from on or about February 23, 2015, to on or about September 14, 2015. At all times relevant to this litigation, Plaintiff Joseph Hardesty was employed as a Recruiter at Kroger's CoRE Center, in Blue Ash, Ohio.

9. Plaintiff Madeline Hickey is an individual residing in Hamilton County, Ohio. She was employed by Kroger from on or about October 31, 2014, to on or about April 1, 2015. At all times relevant to this litigation, Plaintiff Madeline Hickey was employed as a Recruiter at Kroger's CoRE Center in Blue Ash, Ohio.

10. Plaintiff Derek Chipman is an individual who resided in Elsmere, Kentucky, while employed by Kroger, and currently resides in Elsmere, Kentucky, and attends post-graduate school in Brooklyn, New York. He was employed by Kroger from on or about February 23, 2015, to on or about August 6, 2015. At all times relevant to this litigation, Plaintiff Derek Chipman was employed as a Recruiter at Kroger's CoRE Center in Blue Ash, Ohio.

11. Upon information and belief, Defendant Kroger G.O., LLC is a limited liability company organized and existing under the laws of the State of Ohio, and is a wholly owned subsidiary of The Kroger Co.

12. Defendant The Kroger Co. is one of the world's largest grocery retailers, which owns numerous grocery and retail stores around the United States and in other countries. The principal offices of The Kroger Co. are located in Cincinnati, Hamilton County, Ohio.

13. Upon information and belief Defendant's The Kroger Company and Kroger G.O., LLC are employers and enterprises engaged in interstate commerce.

IV. CLASS ALLEGATIONS (FOR COUNTS II, III AND IV)

14. The potential class is defined to include all current and former employees at Kroger's CoRE Center who held the position of Recruiter since the start of the CoRE Center's operations in Blue Ash, Ohio, in 2014, to the date of judgment in this matter.

15. Upon information and belief here are approximately 200 or more employees Kroger classifies as "Recruiters" at its CoRE Center in Blue Ash, Ohio.

16. The question of fact/law which is common to the class is whether Kroger has misclassified its Recruiters as exempt employees under the FLSA.

17. The claims of Joseph Hardesty, Derek Chipman, and Madeline Hickey are typical of the claims of the class members in that they have been employed as Recruiters at the Kroger CoRE Center and have been subjected to the same duties, job requests, policies, procedures, training and misclassification as other Kroger CoRE Center Recruiters.

18. Joseph Hardesty, Madeline Hickey, and Derek Chipman are adequate representatives of the class in that they suffer from the same misclassification and their interests are not inconsistent with interests of the other members of the proposed class. Further, they have retained competent counsel through whom they can vigorously prosecute the interests of the class.

19. The representatives' claims are typical of the class in that both the representatives and the individuals in the potential class have been misclassified as exempt under the FLSA.

V. FACTUAL ALLEGATIONS

20. Upon information and belief, Kroger's CoRE Center is a call center located in Blue Ash, Ohio, with over 300 employees. The CoRE Center makes outbound calls to and receives inbound calls from online applicants who have applied for employment at various Kroger-owned grocery and retail stores throughout the United States. Recruiters schedule such applicants for interviews at stores in which they applied.

21. Plaintiffs were employed by Kroger's CoRE Center as Recruiters.

22. As Recruiters, Plaintiffs' primary responsibilities included making telephone screening calls to individuals who had applied online to Kroger-owned stores throughout the United States.

23. The online applicants typically applied for entry-level positions at Kroger, including but not limited to clerking positions in various departments (produce, meat, seafood, floral, etc.), stockers, cashier, and bagger positions.

24. These screening calls were meant to obtain data regarding an applicants' minimum qualifications and fitness for employment for a position at one of Kroger's stores by asking each applicant the same three questions. If an applicant's responses met the qualifications for a position, a Recruiter was to schedule an in-store interview for the applicant at the Kroger store to which they applied.

25. At no time did Plaintiffs have the authority to make hiring or other personnel management decisions beyond scheduling an in-store interview.

26. In performing these telephone screening calls, Kroger directed Plaintiffs to ask online applicants three pre-established questions. These questions generally solicited the following information:

- a. What interested you in working for Kroger?
- b. What job related and/or academic achievement you are most proud of?, and
- c. How would you show friendly customer service at Kroger?

27. Plaintiffs were directed not to ask anything outside the scope of these three pre-established questions during the screening process.

28. If an online applicant was able to minimally answer these three pre-established questions, the Recruiter was directed to schedule the applicant for an in-store interview.

29. Applicants rarely provided responses which were not adequate enough to automatically trigger the scheduling of an interview.

30. On the occasions in which an applicant did fail to provide the minimal response required, management at the CoRE Center would review the applicant's responses and ultimately determine if an interview should be scheduled.

31. A scheduled interview at a particular Kroger store in no way committed Kroger to hiring a particular applicant.

32. Recruiters never made hiring decisions with respect to a job applicant.

33. Upon information and belief, the decision to hire or recommend hiring of applicants was made by a local store's management personnel.

34. Recruiters had no interaction with online job applicants prior to the telephone screening.

35. Following the telephone screening and scheduling of an in-store interview, Recruiters had no further interaction with job applicants.

36. Since Kroger's CoRE Center began its operations in 2014, Kroger has treated the call center Recruiters as employees who were exempt from the requirements of the FLSA.

37. As a result of being classified as exempt employees, all Recruiters were permitted and/or required to work over 40 hours a week.

38. The Recruiters' supervisors were aware that Recruiters worked over 40 hours a week.

39. Kroger did not, and does not, pay additional hourly wages or overtime to its Recruiters and has not paid additional hourly wages or overtime to Plaintiffs.

40. Plaintiffs, as Recruiters, have consistently worked over 40 hours a week each week they were employed. In particular, Plaintiffs were consistently required to (a) enter the workplace thirty to sixty minutes prior to beginning their phone screening calls, (b) return from lunch approximately fifteen to thirty minutes prior to the end of their designated lunch break, and/or (c) remain thirty to sixty minutes after the end of their shift to finish making screening calls and/or to finish work related to screening calls made that day. This resulted in Recruiters working in excess of 45-50 hours per week.

41. Plaintiffs consistently have not been compensated for hours worked over 40 hours per week.

42. Kroger CoRE Center's Recruiters are similarly situated in that they are subject to the same Kroger policy which wrongfully designates the Recruiters as exempt from the FLSA, resulting in a failure to pay additional hourly wages and overtime for hours worked in excess of 40 hours per week.

43. All Kroger CoRE Center Recruiters perform essentially the same duties.

44. All Recruiters receive standardized training from Kroger regarding their job duties at the CoRE Center.

45. All Recruiters use three pre-established questions, set by Kroger, in performing phone screening interviews at the CoRE Center.

46. All Recruiters exercise no discretion with respect to matters of significance, as the information Recruiters convey to applicants, the methods of interviewing applicants, the lists of

applicants whom they are to call or receive calls from, and the number of interviews to schedule per day are determined by Kroger management.

47. All Recruiters follow the same process in scheduling interviews set by Kroger, and are thus fungible/interchangeable with the other Recruiters at the call center.

48. All Recruiters are assigned the list and number of online job applicants to call each day from Kroger.

49. Kroger has not acted in good faith in failing to pay overtime to its Kroger CORE Center Recruiters.

50. Because Kroger's violation of the FLSA in failing to pay overtime is willful, it is liable for the overtime it has failed to pay during the past three years, pursuant to 29 U.S.C. § 255.

51. Kroger has misclassified and continues to misclassify the CoRE Center Recruiters as exempt under the FLSA and the OMFWSA.

COUNT I
(Fair Labor Standards Act)

52. The allegations of Paragraphs 1-51 are herein incorporated by reference.

53. Plaintiffs bring their FLSA claims individually and pursuant to 29 U.S.C. §216(b) as a representative action on behalf of the following opt-in class:

All persons who were, or are, employed with Kroger as a Recruiter at the CoRE Center in Blue Ash, Ohio, at any time from three years prior to the filing of this Complaint to entry of judgment in this case.

54. Plaintiffs are similarly situated to all former and current Recruiters described in the above opt-in class.

55. Kroger has violated the Fair Labor Standards Act, and in particular 29 U.S.C. § 207 by misclassifying its Recruiters as exempt employees.

56. As a result of Kroger's misclassification, Plaintiffs as individuals, Plaintiffs as representatives for the class, and the members of the class that Plaintiffs seek to represent (all Recruiters who have worked at Kroger's CoRE Center since its inception in 2014 through the date of judgment) have been deprived of wages and overtime for work they have performed in excess of a 40 hour work week.

57. Kroger's misclassification has been willful.

58. Kroger did not act in good faith in misclassifying its Recruiters as exempt.

COUNT II
(Ohio Wage Law)

As a further and separate cause of action, Plaintiffs state as follows:

59. The allegations of 1-58 are herein incorporated by reference.

60. Plaintiffs bring their claims under OMFWSA, O.R.C. § 4111.10 on behalf of all persons who worked for Kroger as Recruiters at its CoRE Center in Blue Ash, Ohio, at any time from three years prior to the filing of this Complaint to entry of judgment in this case.

61. Kroger has violated the OMFWSA, O.R.C. § 4111.01 *et seq.*, by misclassifying their Recruiters as exempt employees.

62. As a result of Kroger's misclassification, Plaintiffs as individuals, Plaintiffs as representative for the class, and the members of the class that Plaintiffs seek to represent have been deprived of wages for work they have performed in excess of a 40 hour work week.

63. Kroger's misclassification has been willful.

64. Kroger did not act in good faith in misclassifying its Recruiters as exempt.

65. As a consequence of this misclassification, Plaintiffs seek to bring a Rule 23(b)(3) Class action on the part of all persons who have worked and are working for Kroger as Recruiters at its CoRE Center in Blue Ash, Ohio.

66. Plaintiffs can meet the numerosity, commonality, typicality, and adequate representation requirements for a Rule 23 class action as set forth in the Class Allegations in paragraphs 14 through 19 above.

67. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. The expense of individual litigation may be prohibitive and render it impractical for class members to sue Kroger for wrongfully withheld hourly pay and overtime wages.

COUNT III
(Ohio Law, Unjust Enrichment)

As a further and separate cause of action, Plaintiffs state as follows:

68. The allegations of Paragraphs 1-67 are herein incorporated by reference.

69. Plaintiffs and the similarly-situated Kroger CoRE Center Recruiters, conferred a benefit upon Kroger when they worked hours and provided services to the Defendant and performed such other acts and conduct for Kroger's benefit.

70. The benefits were conferred by Plaintiffs and those similarly-situated, without receiving just compensation from Kroger for the services rendered.

71. Kroger thereby has been unjustly enriched by the benefits conferred by Plaintiffs and those similarly-situated.

72. Plaintiffs, and those similarly-situated, are entitled to just compensation for the reasonable value of services rendered to Defendant.

73. As a consequence of this misclassification, Plaintiffs seek to bring a Rule 23(b)(3) Class action on the part of all persons who have worked and are working for Kroger as Recruiters at its CoRE Center in Blue Ash, Ohio.

74. Kroger CoRE Center Recruiters working in the State of Ohio.

75. Plaintiffs can meet the numerosity, commonality, typicality, and adequate representation requirements for a Rule 23 class action as set forth in the Class Allegations in paragraphs 14 through 19 above.

76. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. The expense of individual litigation may be prohibitive and render it impractical for class members to sue Kroger for wrongfully withheld hourly pay and overtime wages.

COUNT IV
(Failure to Pay Wages in Violation of Ohio law)

As a further and separate cause of action, Plaintiffs state as follows:

77. The allegations of Paragraphs 1-76 are herein incorporated by reference.

78. Plaintiffs bring their claims under O.R.C. § 4113.15 on behalf of all persons who worked for Kroger as Recruiters at its CoRE Center in Blue Ash, Ohio, prior to the filing of this Complaint to entry of judgment in this case.

79. Defendants violated O.R.C. § 4113.15 by failing to pay Plaintiffs and those similarly situated all wages owed to them within thirty days of the regularly scheduled payday for each pay period in which Plaintiffs and those similarly situated worked.

80. As a result of Kroger's failure to pay such wages, Plaintiffs as individuals, Plaintiffs as representative for the class, and the members of the class that Plaintiffs seek to represent are entitled to such wages and an additional amount as liquidated damages.

81. As a consequence of this misclassification, Plaintiffs seek to bring a Rule 23(b)(3) Class action on the part of all persons who have worked and are working for Kroger as Recruiters at its CoRE Center in Blue Ash, Ohio.

82. Plaintiffs can meet the numerosity, commonality, typicality, and adequate representation requirements for a Rule 23 class action as set forth in the Class Allegations in paragraphs 14 through 19 above.

83. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. The expense of individual litigation may be prohibitive and render it impractical for class members to sue Kroger for wrongfully withheld hourly pay and overtime wages.

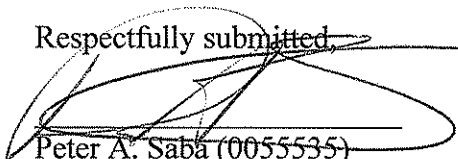
WHEREFORE, the named Plaintiffs, individually and on behalf of those similarly-situated persons request the following relief:

- A. An Order permitting this litigation to proceed as a FLSA collective action and an Ohio class action with Plaintiffs designated as Class Representatives.
- B. Prompt notice, to all collective action class members regarding their right to “opt-in” to this litigation.
- C. Payment of unpaid hourly pay and overtime wages pursuant to O.R.C. § 4111.01 *et seq.*, and the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*
- D. Payment of all unpaid wages pursuant to O.R.C. § 4113.15.
- E. A declaratory judgment finding that: i) Kroger has misclassified its Recruiters at the CoRE Center as exempt, ii) Defendant Kroger was obligated to pay Plaintiffs and similarly situated employees overtime compensation for all hours worked in excess of forty hours per week; iii) Defendant Kroger’s failure to pay Plaintiffs and similarly situated employees overtime compensation constitutes a violation of the FLSA and OMFWSA; iv) Defendant Kroger’s misclassification of Plaintiffs and similarly situated employees as exempt from the FLSA and OMFWSA was improper, willful, and not in good faith; and v) Plaintiffs

and those similarly-situated are entitled to proper compensation, liquidated damages and reasonable attorneys' fees pursuant to the FLSA and OMFWSA.

- F. Liquidated damages.
- G. Pre-judgment and post-judgment interest
- H. Attorneys' fees and costs.
- I. Such other injunctive and equitable relief as this Court may deem just and proper.

~~Respectfully submitted,~~



Peter A. Saba (0055535)
Joshua M. Smith (0092360)
Sharon J. Sobers (0030428)
STAGNARO, SABA
& PATTERSON CO., L.P.A.
2623 Erie Avenue
Cincinnati, Ohio 45208
(513) 533-2701
(513) 533-2711 (fax)
pas@sspfirm.com
Attorneys for Plaintiffs

DEMAND FOR TRIAL BY JURY

Plaintiffs demand a jury on all issues triable to a jury.

~~Respectfully submitted,~~



Peter A. Saba (0055535)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JOSEPH HARDESTY, et al.
Individually and on behalf of All
Others Similarly Situated

Plaintiffs,

v.

THE KROGER CO., et al.

Defendants.

: Case No. _____

: Judge _____

:
: **CONSENT TO BECOME A PARTY**
: **PURSUANT TO 29 U.S.C. § 216(b)**

I, Joseph Hardesty, a former employee of The Kroger Co., hereby consent to serve as a party-plaintiff and class representative in the above-captioned litigation.

Signature: Joseph R Hardesty
Date: 1/6/16

Joseph R Hardesty
Name

7733 Andersonsboro Drive
Street Address

Cincinnati Ohio 45255
City, State, Zip Code

513-232-3737
Telephone

hardestyjoseph@gmail.com
E-Mail Address

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JOSEPH HARDESTY, et al.
Individually and on behalf of All
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Plaintiffs,

v.

THE KROGER CO., et al.

Defendants.

: Case No. _____

:

: Judge _____

:

:

: **CONSENT TO BECOME A PARTY**

: **PURSUANT TO 29 U.S.C. § 216(b)**

:

:

:

:

:

:

I, Derek Chipman, a former employee of The Kroger Co., hereby consent to serve as a party-plaintiff and class representative in the above-captioned litigation.

Signature: 

Derek Chipman
Name

Date: 1-6-2016

1002 Wernle Way Lor
Street Address

Elsmere, KY 41018
City, State, Zip Code

404-384-1528
Telephone

derek.chipman@600K1nd.edu
E-Mail Address

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JOSEPH HARDESTY, et al.
Individually and on behalf of All
Others Similarly Situated

Plaintiffs,

v.

THE KROGER CO., et al.

Defendants.

: Case No. _____
:
: Judge _____

:
: **CONSENT TO BECOME A PARTY**
: **PURSUANT TO 29 U.S.C. § 216(b)**

I, Madeline Hickey, a former employee of The Kroger Co., hereby consent to serve as a party-plaintiff and class representative in the above-captioned litigation.

Signature: Madeline Hickey

Date: 1/15/16

Madeline Hickey
Name

1711 Mills Ave
Street Address

Cincinnati, OH 45212
City, State, Zip Code

937-296-6704
Telephone

madeline.hickey@gmail.com
E-Mail Address

JS 44 (Rev. 12/12)

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

Joseph Hardesty
Derek Chipman
Madeline Hickey

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

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

Peter A. Saba, Joshua M. Smith, and Sharon J. Sobers
Stagnaro, Saba & Patterson Co., L.P.A.
2623 Erie Avenue, Cincinnati, Ohio 45208 Phone: 513-533-2701

DEFENDANTS

The Kroger Co.
Kroger G.O., LLC

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

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

Attorneys (If Known)

Beau Sefton
1014 Vine St.
Cincinnati, Ohio 45202

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

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 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)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | 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 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)

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 (Excludes Veterans) <input type="checkbox"/> 152 Recovery of Defaulted Student Loans <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	PERSONAL INJURY <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	PERSONAL INJURY <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 PERSONAL PROPERTY <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 LABOR <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 type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <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)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <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
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	Habeas Corpus: <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 Other: <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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Fair Labor Standards Act, 29 U.S.C. 201, et seq.

Brief description of cause: wage and hour, misclassification, failure to pay overtime compensation

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE
02/09/2016

SIGNATURE OF ATTORNEY OF RECORD

Joshua M. Smith

FOR OFFICE USE ONLY

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