

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DONALD GREEN, Individually and
On behalf of all others similarly situated,

Plaintiffs,

Case No:

v.

FLEETCOR TECHNOLOGIES
OPERATING COMPANY, LLC,

Defendant.

_____/

**COLLECTIVE ACTION COMPLAINT PURSUANT TO 216B FOR
VIOLATIONS OF THE FAIR LABOR STANDARDS ACT**

Plaintiff, DONALD GREEN, individually and on behalf of all others similarly situated, bring this collective action for violations of the Fair Labor Standards Act ("FLSA") and state as follows:

JURISDICTION AND VENUE

1. This Court has original jurisdiction to hear this Complaint and to adjudicate the claims stated herein pursuant to 28 U.S.C. Section 1331 because this action asserts claims arising under federal law, the FLSA, 29 U.S.C. Section 201, et seq.

2. Venue is proper in this District, pursuant to 28 U.S.C. Section 1391, because the Defendant resides in this

District with principal offices located in this district, and because a substantial part of the events or omissions giving rise to the claims occurred in this District.

PARTIES

3. Plaintiff, DONALD GREEN, is a resident of the State of Georgia, resides in this District and is a current employee of Defendant.

4. Green began his employment with Defendant in October 2014 and at all material times has worked for Defendant in its Norcross, Georgia Office as an inside sales representative selling fuel cards. Plaintiff is a current employee as of the filing of this Complaint.

5. Defendant is a publicly traded foreign corporation with its principal place of business located at 5445 Triangle Parkway, Suite 400, Norcross, Georgia, 30092.

6. Defendant is subject to the jurisdiction of the FLSA, engaged in interstate commerce and earnings exceeding \$500,000 in the prior 3 years.

7. Plaintiff, and those similarly situated, are current and former employees of Defendant within the meaning of the FLSA, and Defendant employed them within three (3) years of the date this Complaint was filed.

8. Plaintiff did not previously opt into the prior

collective actions against the Defendants nor has he been paid for all the overtime hours he worked.

9. The Plaintiff has incurred unpaid overtime hours by routinely working overtime throughout his time of employment with the Defendant.

10. The Plaintiff's claims are similar to those asserted in the case of Jones et. al. v. Fleetcor Technologies et. al., Case No. 1:16-cv-01092-TCB United States District Court, Northern District of Georgia.

FACTUAL ALLEGATIONS

11. Defendant is a wholly owned subsidiary of a publicly traded company, Fleetcor Technologies Inc. (symbol FLT) that has annual revenues that exceed \$500,000.00 per annum.

12. Defendant employs inside sales representatives, upwards of 350 or more, working in multiple offices in Georgia selling gas or fuel cards to businesses.

13. Defendant provides fuel cards and workforce payment products to businesses, commercial fleets, oil companies, petroleum marketers and government entities throughout the United States.

14. At all times relevant to this Complaint, Plaintiff, and those similarly situated, worked for Defendant as "inside sales representatives" from within Defendant's office in

Norcross Georgia, and/or the Defendant's Atlanta office.

15. Plaintiff, and those similarly situated worked as hourly, non-exempt employees who also earned and were paid weekly commissions based upon gallons charged to fuel cards.

16. Plaintiff's commissions, and the same for all other inside sales representatives, were a substantial component of the overall compensation each earned.

17. Plaintiff and similarly situated inside sales representatives routinely worked in excess of forty (40) hours per week without appropriate overtime compensation.

18. At various times, Defendant directed, ordered, pushed and coerced Plaintiff and similarly situated inside sales representatives to work in excess of forty (40) hours per week to meet their sales quotas.

19. During the hiring process, Defendant's managers, told Plaintiff and other inside sales representatives that the job was "not a forty (40) hour per week position".

20. Plaintiff, when hired, was lead to believe he was being paid as salaried employee or otherwise was not entitled to overtime wages.

21. In the beginning of Plaintiff's employment, Defendant simply did not have any formalized structured or system to track

and record Plaintiff's work hours or those of other inside sales representatives.

22. Inside sales representatives were instructed to keep timesheets manually, but were also instructed to not record any more than forty hours per week, regardless of the actual hours worked. Plaintiff and other inside sales representatives were instructed to record a 1 hour lunch period regardless of whether they actually took a lunch break.

23. Accordingly, Fleetcor did not pay Plaintiff or other sales representatives the legally required overtime compensation for hours worked in excess of forty.

24. Upon information and belief, in January 2016, Fleetcor installed a timekeeping system for inside sales representatives called DAYFORCE.

25. Despite this new timekeeping system, Plaintiff and other inside sales representatives continued to work off-the-clock, through lunches, after-hours, and on weekends in order to meet Fleetcor's quotas, all of which Defendant knew was happening through various databases and systems and emails which Defendant monitored and tracked.

26. Accordingly, Plaintiff and other inside sales representatives were not paid overtime for all hours worked in excess of forty.

27. Plaintiff and other inside sales representatives worked off-the-clock with the full knowledge and consent of Fleetcor, and management and supervisors permitted and readily observed employees including Plaintiff to work beyond the end of the shift, and through lunches without disciplining employees. In other words, Defendant simply turned a blind eye repeatedly and periodically to the inside sales employees working overtime hours and off the clock, even though legally they were required to either formally discipline the employees or pay them for the time.

28. In other words, Defendant willfully violated the FLSA by not compensating employees, including Plaintiff and all others they knew were working overtime, and by not offering to pay for overtime hours to those employees who did not join or file claims in all the other many past lawsuits.

29. Defendant's managers made statements such as "this is not an 8 to 5 job", and "you need to do whatever it takes to meet your quotas".

30. Plaintiff's superiors pressured, urged and encouraged all inside sales representatives to work beyond the scheduled 40 hours. They were encouraged to come in early, stay late, work after hours and work through lunches in order to meet goals/quotas and maximize sales.

31. Fleetcor management applied pressure to push Plaintiff and the sales representatives to work extra hours because the sales representatives' bonuses and commissions were dependant upon the sales representatives sales and gallons used; "more hours means more commissions."

32. Thus, Plaintiff, and all other inside sales representatives, routinely worked over 40 hours without the legally required overtime compensation.

33. Defendant maintained a common unlawful pay practice and policy of simply not paying overtime wages even when it absolutely knew the inside sales representatives were routinely working over 40 hours in work weeks.

34. Defendants maintained a company policy that it did not pay overtime compensation.

35. Plaintiff, and the class of similarly situated employees, regularly and routinely worked over forty (40) hours with Defendant's knowledge and behest throughout their employment

36. Even after multiple lawsuits and settlements¹ regarding overtime compensation, Defendants continued its de facto policy of allowing/requiring sales representatives to work

¹ See Miller et. al. v. Fleetcor, Case No. 3:15-cv-1203-J-32PDB, (M.D. Fla. 2015); Jones et. al. v Fleetcor, Case No. 1:16-cv-1092-TCB (N.D. Ga. 2016); and Mintchev et al v. Fleetcor Technologies Operating Company, Case No. 1:15-cv-03586 (N.D. Ga. 2015)

off-the-clock without overtime compensation.

37. Fleetcor continued to push sales representatives to work through lunches and take phone calls off-the-clock. Defendants' primary goal was to ensure that sales representatives were hitting their phone call matrix and meeting goals/quotas.

38. Defendant's managers readily observed Plaintiff and those similarly situated working overtime within the offices of Defendant, and were aware of customers calling sales reps and sales reps calling customers after 5pm or on weekends.

39. Plaintiffs and similarly situated inside sales representatives accessed electronic and computer systems, telephone, and e-mails, which would, if produced, help reflect the true hours that they worked.

40. At all times material to this Complaint, Defendant willfully failed to compensate Plaintiff and similarly situated inside sales representatives for all overtime hours worked.

41. After multiple lawsuits and settlements (see footnote 1 supra) it is clear that Defendant knew that it was violating the FLSA, that they failed to adequately track sales representatives hours and failed appropriately compensate Plaintiff and similarly situated sales representatives for overtime hours worked.

42. Yet despite prior knowledge, Fleetcor failed and/or refused to take affirmative action to compensate sales representatives who did not join the litigation for past overtime obligations, and failed to take the steps necessary to ensure that Plaintiff and other sales representatives would be appropriately compensated for all overtime hours in the future.

43. Defendant has never changed its pay practices to bring it within compliance of the FLSA. Fleetcor continues to turn a blind eye and intentional indifference to employees working off the clock, working through lunches or working after-hours.

COLLECTIVE ACTION ALLEGATIONS

44. Plaintiff is aware that there are other similarly situated sales representatives who were denied overtime wages and who were not fully compensated for their overtime hours as part of any prior lawsuit, settlement or collective action and who now seek to join this action.

45. As of the date of this filing, upwards of eleven (11) other current or former sales representatives who worked for Fleetcor during the past three years who claim that they were denied the legally required overtime compensation are seeking to opt in and file consents in this action.

46. Pursuant to the collective action procedures of the

FLSA², These other participants have contemporaneously filed (or will file) their consent to join this litigation; or stated differently, to "Opt-In" to this litigation.

47. Upon information and belief, the class size during the relevant class period is upwards of 900 employees, just in the Georgia offices, counting turnover during the past 3 years.

48. Upon information and belief, a significant percentage of present and former inside sales representatives opted-in and claimed their unpaid overtime wages in previous lawsuits and settlement - which were ultimately both settled by Defendant on or about April 2016 and July, 2017 respectively. (See Footnote 1 Supra).

49. Thus Defendant is well aware of similar claims by a large percentage of inside sales representatives who have worked from 2014 to the present but for whatever reason did not elect to "opt-in" to participate in any prior litigation. Fleetcor has not paid nor sought to pay any current or former sales representatives that did not elect to join the prior litigation for any potential unpaid overtime obligations it may owe.

50. Plaintiff, and all others similarly situated inside sales representatives handle either inbound or outbound calls to sell gas or fuel cards to businesses.

² See 29 U.S.C. §216(b) and *Hoffman-La Roche, Inc. v. Sperling*, 493 U.S. 165 (1989).

51. Inside sales representatives do not supervise two or more full-time employees and thus cannot meet the Executive Exemption.

52. Inside sales representatives' primary job duties do not involve the exercise of independent discretion and judgment in matters of significance, they are in the production aspect of Defendant's' business, selling its products and following scripts. Thus they cannot meet the Administrative Exemption.

53. Defendant knows now, and has known for the past 3 years that inside sales representatives do not meet or satisfy any exemption under the FLSA and are entitled to overtime wages or a premium for all hours worked in excess of forty (40) during any given workweek, and that they are and were legally required to pay the hours when they had any knowledge of the inside sales representative working overtime without being paid, such as making phone calls off the clock and evening hours they were aware was going on.

54. Plaintiff and the class of similarly situated were micro managed and highly scrutinized on a daily and weekly basis with very little room to deviate from strict regulated manners in which to perform their job duties and responsibilities.

55. Inside sales representatives do not have decision making authority, and fail all exemptions under the FLSA.

56. Plaintiff and all inside sales representatives work in a very high pressured, boiler room type environment.

57. Prior to 2016, Fleetcor did not have a timekeeping system. Fleetcor simply required that sales representatives maintain a weekly timesheet and pursuant to policy that timesheet was not allowed to reflect more than forty (40) hours regardless of how many hours the sales representatives actually worked.

58. In 2016 Defendant implemented a timekeeping system called DAYFORCE. But Defendant was made aware by Plaintiff and other inside sales representatives of glitches and problems with the DAYFORCE timekeeping system, which has continued from its initial installation (2016) through the present, leading to underpayment of wages.

59. Defendant was made aware that inside sales representatives worked and made telephone calls while not clocked into the DAYFORCE system.

60. Upon information and belief, Defendant also edited and shaved time from the inside sales reps hours even if overtime hours were logged into DAYFORCE, including automatically editing time to reflect a 1 hour for lunch time even if the employee worked through some or all of their lunch.

61. Regardless, Plaintiff and many sales reps were forced

to simply log off at 5 pm, and continue to work off the clock under its de facto policy.

62. Inside sales representatives have had instances in which they could not login to DAYFORCE when they started work, and had to wait for someone to figure out the problem; and on some occasions, inside sales representatives have reported that on one or more days, their login and logout times were missing from DAYFORCE despite the employees working on those days.

63. As a result of these pervasive and routine errors, Plaintiffs and all others similarly situated were not paid for all hours worked.

64. Upon information and belief, even after DAYFORCE was commenced by Fleetcor as a time tracking system, it was not uniformly required and monitored or enforced until 2017.

65. Moreover, even after DAYFORCE was instituted as a system to track and record work times of inside sales representatives, inside sales representatives were still permitted, allowed and even encouraged to continue to work overtime as long as they were logged off.

66. Throughout most if not all of the time Fleetcor commenced with DAYFORCE, at no time did DEFENDANT require inside sales representatives, including Plaintiffs to go home or leave their jobs and desks at 5:00pm.

67. Managers would leave and even tell inside sales representative only to log off at 5:00pm, but never instruct inside sales representatives to cease working at 5:00 pm.

68. Inside Sales representatives were still permitted to and did log off DAYFORCE and continue to work "through lunch" and "off the clock" at their desks past 5:00pm with the full knowledge of Defendants and without be subjected to disciplinary action.

69. Throughout the relevant period, Defendant has continued to permit, allow and acquiesce to inside sales representatives working through their lunch periods without being adequately compensated for all the time.

70. Upon information and belief, inside sales representatives would be encouraged to work through some of the standard one hour lunch break by managers, and after they logged back into Dayforce, Defendant then would edit the time to reflect a one hour break.

71. Prior to DAYFORCE, Defendant willfully failed and refused to institute systems, procedures and mechanisms to accurately and actually track and record the work hours.

72. Plaintiff brings this suit on behalf of himself and all others similarly situated and propose the following collective description:

Any current or former inside sales representative who worked for Fleetcor during the three-year period immediately prior to filing this Complaint and any current or former employee performing essentially the same job duties as an inside sales representative regardless of job title, including but not limited to Account Manager, Territory Manager, Account Executive, Consultant or Sales Representative.

73. By failing to record all hours worked, and by allowing, encouraging or requiring them to work "through lunches" and off-the-clock, Defendants subjected Plaintiff and all inside sales representatives to a common practice, policy and scheme to deny inside sales representatives the entirety of their legally required overtime compensation.

74. Plaintiff and all similarly situated inside sales representatives are without doubt similarly situated, subjected to common, uniform policies and practices by Defendant.

75. Defendant has acted or refused to act on grounds applicable to the proposed class in a uniform, common application of pay practices, thereby making the identical relief appropriate with respect to their current and former employees who are part of the class as a whole.

76. Moreover, common questions of law and fact predominate over any questions affecting only the Plaintiff and a collective action is superior to other available methods for fair and

equitable adjudication of the controversies between the Plaintiff and Defendant.

COUNT I
VIOLATION OF THE FAIR LABOR STANDARDS ACT

77. Plaintiff re-allege and incorporate by reference all above paragraphs as if fully set forth herein.

78. The FLSA requires employers to pay employees wages at a rate no less than one-and-a-half times their regular hourly rate of pay for all hours worked in excess of forty (40) hours in individual work weeks. 29 U.S.C. § 207.

79. Defendant is an "employer" of Plaintiff and those similarly situated within the meaning of the FLSA.

80. Defendant is an "enterprise" as defined by the FLSA and engaged in interstate commerce.

81. Plaintiff and those similarly situated worked more than forty (40) hours in the workweeks going back three (3) years from the filing of this Complaint and did not receive overtime compensation for all of the overtime hours worked.

82. Plaintiff and those similarly situated are not exempt employees under the FLSA or other Federal rules and regulations.

83. Defendant has willfully violated the FLSA and is liable for wages for a three (3) year period of time preceding

the filing of this complaint. Defendant has known for the past 3 years that the inside sales representatives were non-exempt employees, and continued refuse to compensate Plaintiff and the class of similarly situated for overtime hours worked.

84. Defendant did not make a good faith effort to comply with the FLSA and owes Plaintiff and those similarly situated liquidated damages and an equal sum of all wages owed.

85. Defendant knew that Plaintiff and those similarly situated were working overtime hours and willfully refused to pay Plaintiff and all similarly situated inside sales representatives overtime pay at one and a half time their regular rate of pay for all overtime hours worked.

86. Defendant also has failed to pay overtime at the proper rate of one and one half time the employees' regular rate of pay including the value of all commissions and bonuses earned.

87. Defendant has also violated the recordkeeping provisions of the FLSA, 29 CFR §516.2, which mandates that an Employer record and track the hours of non-exempt employees.

88. Because of these unlawful pay practices, which have continued in the past three years up through the present, Plaintiffs and those similarly situated have suffered lost wages and damages.

WHEREFORE, Plaintiff and those similarly situated request from this Court:

- a. An order certifying this as a collective action;
- b. Appointment of the Plaintiff as class representatives;
- c. Appointment of the undersigned as attorney of record for the collective class;
- d. Authorization for the issuance of a notice to all similarly situated former and current inside sales representatives of Defendant that apprise the putative class and notify them of the pendency of this action and provides them with the opportunity to assert timely FLSA claims by the filing of individual consent to join forms;
- e. Judgment finding Plaintiff and those similarly situated are entitled to overtime pay at one and a half times their regular rate;
- f. Judgment against the Defendant finding they violated the FLSA;
- g. Judgment against the Defendant finding they acted willfully and in bad faith;
- h. Award of monetary damages for unpaid wages;

- i. Award of monetary damages for liquidated damages under the FLSA;
- j. Special award to Plaintiff for service as class representatives;
- k. Award of reasonable attorneys' fees, costs, and expenses; and
- l. Such other equitable or legal relief the Court should deem necessary and just including the entry of an Injunction barring the Defendant from continuing to violate the FLSA by failing to pay overtime wages to inside sales representatives.

Submitted this 14th day of September, 2017.

Respectfully submitted,

/s/Mitchell L. Feldman, Esq.
Mitchell L. Feldman, Esquire
Georgia Bar No.: 25779
1201 Peachtree Street
Colony Square, Suite 200
Atlanta, GA 30361
Tel: (877) 946-8293
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E-Mail: mlf@feldmanlegal.us
Attorney for Plaintiffs

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

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

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

DEFENDANTS

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

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

Attorneys (If Known)

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

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

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

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, TORTS, PERSONAL INJURY, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

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

Brief description of cause:

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 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

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

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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

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

UNITED STATES DISTRICT COURT

for the

_____ District of _____

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Plaintiff(s)

v.

Civil Action No. _____

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

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

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

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

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

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

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

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

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

I returned the summons unexecuted because _____; or

Other *(specify)*: _____.

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

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

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: