

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

RICHARD APPELYARD, Individually,)	
and on behalf of all others similarly situated,)	
)	
Plaintiffs,)	Dkt. No.: 16-cv-1290
)	JURY TRIAL DEMANDED
vs.)	
)	
MURPHY OIL USA, INC.,)	
)	
Defendant.)	

COMPLAINT

I. NATURE OF THE ACTION

1. This is an action for damages, declaratory, and injunctive relief, both preliminary and permanent, to redress the violation of rights secured by under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e), *et seq.* The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1343(4), 42 U.S.C. § 2000(e-5)(f)(3), and 42 U.S.C. § 1988. Declaratory injunctive relief is authorized pursuant to 28 U.S.C. §§ 2201 and 2202. Plaintiff also brings this as an individual and collective action to require Defendant to pay back wages owed to Plaintiff and the Plaintiff Class, which Defendant failed to pay in violation of § 7 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et seq.* (“the Act”). Named Plaintiff seeks permanent injunctive relief and damages for himself, and those similarly situated, who worked for the Defendant and earned, but did not receive, compensation for time worked, and/or together with time and one-half pay for time worked over 40 hours per week for the Defendant.

2. The FLSA collective group consists of all individuals employed by the Defendant at any time during the applicable limitations period. The Named Plaintiff, during the applicable time periods is and/or was a member of this collective group and also brings individual claims as such.

II. JURISDICTION AND VENUE

3. The foregoing paragraphs are incorporated herein as if set forth in their entirety.

4. This Court has jurisdiction of Plaintiff's claims pursuant to 29 U.S.C. § 201, *et seq.*; 29 U.S.C. § 216, 28 U.S.C. § 1331, and 28 U.S.C. § 1337(a). This Court has further jurisdiction under 42 U.S.C. § 2000(e) *et. seq.*

5. Venue is proper pursuant to 28 U.S.C. § 1391(b)(ii) because the Defendant transacts business in this district, and Plaintiff was employed by the Defendant in this district, and the actions complained of herein were conducted within this district.

III. EXHAUSTION OF REMEDIES

6. Prior to instituting this action, Plaintiff timely filed a charge of discrimination with the Equal Employment Opportunity Commission pursuant to § 706(e) of Title VII, 42 U.S.C. § 2000(e-5)(e), and received a right to sue letter within ninety (90) days of filing this lawsuit. A copy of the right to sue letter is attached hereto as an exhibit to this Complaint.

IV. PARTIES

7. The foregoing paragraphs are incorporated herein as if set forth in their entirety.

8. Plaintiff Richard Appleyard (hereinafter "Plaintiff") is and was at all times relevant to the matters at issue a resident of Hardin County, Tennessee, and an employee of Defendant Murphy Oil USA, Inc. Plaintiff is a member of the Jehovah's Witness Church.

Plaintiff was at all times relevant hereto a non-exempt employee of Defendant who occasionally was required to work off the clock in order to keep his job with the Defendant.

9. The similarly situated employees are and/or were hourly non-exempt employees of Defendant who were also required to occasionally work off the clock.

10. The named Plaintiff and the class of similarly situated employees at all times relevant hereto were each an “employee” as that term is defined by 29 U.S.C. § 203(e). Further, Plaintiff Appleyard at all relevant times hereto, was an “employee” of the Defendant, as that term is defined by Title VII.

11. The Defendant at all times relevant hereto was the “employer” of the named Plaintiff and Plaintiff class members as that term is defined by 29 U.S.C. § 203(d) and § 701(b), (g), and (h), of Title VII, 42 U.S.C. § 2000(e)(b), *et seq.*

12. Defendant, Murphy Oil USA, Inc., (hereinafter “Defendant”) is a Delaware corporation licensed and doing business in the State of Tennessee with its principal office located at 200 E. Peach St., El Dorado, Arkansas, and was Plaintiff’s “employer” as that term is defined under the FLSA and Title VII. The agent for service of process is CT Corporation System and can be served with legal process at 800 S. Gay Street, Ste. 2021, Knoxville, TN 37929-9710.

V. FLSA COLLECTIVE ACTION ALLEGATIONS

13. The foregoing paragraphs are incorporated herein as if set forth in their entirety.

14. Named Plaintiff brings Cause of Action-Count I of this Complaint as a collective action, alleging violations of the FLSA on behalf of himself and all similarly situated individuals.

This “Collective Group” is defined as:

all individuals who performed or perform various jobs for Defendant and who were and/or are required to work off the clock in violation of the FLSA anywhere

in the United States at any time from the date that is three years preceding the commencement of this action through the close of the Court-determined opt-in period and who file a consent to join this action pursuant to 29 U.S.C. § 216(b).

The “Collective Group” also includes the named Plaintiff in this action. Plaintiff reserves the right to modify this definition prior to conditional certification of the collective group.

15. The named Plaintiff, along with current and former employees of Defendant, in Covered Positions are similarly situated in that they have substantially similar job requirements, pay provisions, and are subject to Defendant’s common practice, policy, or plan of controlling their daily job functions.

16. Defendant regularly permitted and required the named Plaintiff and members of the Collective Group to work off the clock which regularly resulted in Plaintiff and group members working more than 40 hours per week without overtime compensation.

17. Upon information and belief, Defendant knew that the named Plaintiff and all similarly situated individuals performed work that required overtime pay.

18. Defendant has therefore operated under a scheme to deprive these employees of overtime compensation by failing to properly compensate them for all time worked.

19. Defendant’s conduct, as set forth in this Complaint, was willful and has caused significant damages to the named Plaintiff and all similarly situated individuals.

20. Count I of this Complaint for violations of the FLSA may be brought and maintained as an “opt-in” collective action pursuant to 29 U.S.C. § 216(b) because the claims of the named Plaintiff is similar to the claims of current and former employees who work and/or have worked for Defendant. Therefore, the named Plaintiff should be permitted to bring this action as a collective action on behalf of himself and those similarly situated individuals pursuant

to the “opt-in” provision of the FLSA, 29 U.S.C. § 216(b).

21. Defendant is liable under the FLSA for failing to properly compensate the named Plaintiff and all similarly situated individuals, and notice of this lawsuit should be sent to all similarly situated individuals. Those similarly situated individuals are known to Defendant and are readily identifiable through Defendant’s payroll and other personnel records.

VI. FACTS

22. Plaintiff began his employment with the Defendant on June 23, 2009, at Murphy Oil USA, Inc., Store #7171, in Russellville, Alabama. In 2012, Plaintiff transferred to Murphy Oil USA, Inc., Store #6840 in Savannah, Tennessee, and worked as a cashier, trained to work on the gas pumps, performed maintenance, prepared the store for opening, along with other duties.

23. Shortly after beginning his employment with the Defendant, Randy Davis, the District Manager for the Defendant began making disparaging remarks about the Plaintiff’s religion, Jehovah’s Witness, and his religious beliefs.

24. Plaintiff’s religion does not celebrate Christmas and prohibits its members from wishing others a merry Christmas. As the holiday season approached in 2013, Davis became aware that the Plaintiff was not specifically telling the store customers to “have a merry Christmas”. Plaintiff was approached, both by his store manager(s) and Davis and directed to specifically wish the store customers a merry Christmas. Plaintiff refused because of his religious beliefs.

25. More than one of the Plaintiff’s store managers advised him that Davis had directed them to fire him because of his refusal to say merry Christmas to the customers. The managers told Plaintiff that they had refused to do as Davis directed. It appears that Davis

temporarily let the issue go after the Christmas season was over for that year.

26. Davis continued to make disparaging remarks to Plaintiff about his religious beliefs. As the holiday season approached in 2014, Plaintiff knew that that his refusal to say merry Christmas was again going to cause an issue with Davis. Sure enough, on October 21, 2014, Davis wrongfully accused Plaintiff of coming up short on his register and fired the Plaintiff. Plaintiff was never given proof of the shortage or given the opportunity to dispute it. Plaintiff avers that the reason given for his termination was pre-textual and that the actual reason for his termination was because of his religious beliefs and refusal to say merry Christmas to the store customers.

27. Throughout the course of his employment with the Defendant, Plaintiff and other employees would be accused of being short on their registers and told they would have to come in and work “off the clock” to make up the shortage or be fired. These employees were never given proof of the shortage or given the opportunity to dispute it even though all transactions that could have caused a shortage were videotaped by the Defendant.

28. On numerous occasions throughout his employment, Plaintiff illegally worked “off the clock” for the Defendant. Plaintiff is aware of other non-exempt employees of the Defendant who were also similarly required to work off the clock. Upon information and belief, this is widespread and common practice at many of the Defendant’s stores.

29. Plaintiff avers that often when required to work off the clock, it would cause him and/or the other employees to work in excess of 40 hours per week, triggering the Defendant’s obligation under the FLSA to pay overtime pay (time-and-a-half pay) for hours worked in excess of 40 hours for the week.

VII. CAUSES OF ACTION

COUNT I

FAILURE TO PAY OVERTIME
TO THE PLAINTIFF INDIVIUALLY AND THE COLLECTIVE GROUP
FLSA, 29 U.S.C. §§ 201, et seq.
(On behalf of the named Plaintiff and the Collective Group)

30. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding Paragraphs.

31. Section 206(a)(1) of the FLSA provides in pertinent part:

Except as otherwise provided in this section, no employer shall employ any of his employees who in any work week is engaged in commerce or in the production of goods for commerce, for a work week longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

29 U.S.C. § 207(a)(1).

32. There are no exemptions applicable to the named Plaintiff or to other members of the Collective Group.

33. For purposes of the FLSA, the employment practices of Defendant were and are uniform in all respects material to the claims asserted in this Complaint throughout the portions of United States in which Defendant conducts business.

34. The named Plaintiff and other members of the Collective Group, either regularly or from time to time, worked “off the clock” for more than 40 hours per week but did not receive overtime pay.

35. Upon information and belief, at all times relevant hereto, Defendant has had annual gross operating revenues well in excess of \$500,000.00.

36. In committing the wrongful acts alleged to be in violation of the FLSA, Defendant acted willfully in that it knowingly, deliberately, and intentionally failed to pay overtime premium wages to the named Plaintiff and other members of the Collective Group.

37. As a result of Defendant's failure to pay overtime premium wages, the named Plaintiff and the other members of the Collective Group were damaged in an amount to be proved at trial.

38. Therefore, the named Plaintiff demands that he and the other members of the Collective Group be paid overtime compensation as required by the FLSA for every hour of overtime worked in any work week for which they were not compensated, plus interest, damages, penalties, and attorneys' fees as provided by law.

COUNT II

TITLE VII

(On behalf of the named Plaintiff only)

39. Plaintiff incorporates by reference the factual statements contained in the above paragraphs of the Complaint.

40. Plaintiff avers that the above stated acts, done by individuals acting on behalf of the Defendant, discriminated against him on the basis of his religion, in violation of his rights under Title VII.

41. Plaintiff further avers that the unlawful employment practices complained of herein were intentional and/or done with reckless indifference to his employment rights secured under Title VII of the Civil Rights Act of 1964, as amended.

VIII. DAMAGES

42. The unlawful employment practices complained of herein caused Plaintiff to

suffer severe emotional distress, humiliation, inconvenience, and embarrassment. Plaintiff also suffered monetary loss in the form of loss of back pay, future pay, overtime pay, the loss of the benefits of his employment, and he has had to retain legal counsel to defend and prosecute his rights.

43. As a basis for punitive damages, the unlawful employment practices complained of herein were willful, malicious, intentional, and/or done with reckless indifference to his employment rights protected by Title VII.

IX. PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests of this Court the following relief on behalf of himself, all members of the Collective Action, and all other similar situated individuals:

a. That the Court certify the collective group named in the instant suit as an opt-in collective action under 29 U.S.C. § 216(b);

b. That the Court declare the rights and duties of the parties consistent with the relief sought by Plaintiff;

c. That the Court issue a declaratory judgment that Defendant's acts, policies, practices, and procedures complained of herein violated provisions of the Fair Labor Standards Act;

d. That the Court enjoin the Defendant from committing further violations of the Fair Labor Standards Act;

e. That the Court award the named Plaintiff and collective group members compensatory damages and an equal amount of liquidated damages as provided under the law and pursuant to 29 U.S.C. § 216(b);

f. That the Court award the named Plaintiff and the collective group's reasonable attorney's fees, costs, and expenses;

g. That the Court order the Defendant to make the named Plaintiff and the collective group members whole by providing appropriate back pay and other benefits wrongly denied, as well as liquidated damages, in an amount to be shown at trial and other affirmative relief;

h. That the Court declare the Defendant's practices, as complained of herein, to be in violation of Title VII of the Civil Rights Act of 1964, as amended;

i. That the Court grant Plaintiff an Order requiring Defendant to make him whole by appropriate back pay, front pay, and all other benefits of employment lost as a result of the actions complained of herein;

j. That the Court grant Plaintiff any compensatory and/or punitive damages and/or liquidated damages to which he is entitled to under the above Title VII of the Civil Rights Act of 1964 as a result of the actions complained of herein, including but not limited to damages for severe embarrassment, humiliation, and emotional distress;

k. That the Court Grant Plaintiff his costs incurred herein, including a reasonable attorney's fee pursuant to 42 U.S.C. § 1988;

l. That the Court award the named Plaintiff and the collective group members such additional relief as the interests of justice may require;

m. That a jury be impaneled to try this cause.

Respectfully submitted,

WEINMAN THOMAS LAW FIRM

/s/ Michael L. Weinman

Michael L. Weinman (#015074)

Attorney for Plaintiff

112 South Liberty Street, Suite 321

P.O. Box 266

Jackson, TN 38302

(731) 423-5565

mike@weinmanthomas.com

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.)

<p>I. (a) PLAINTIFFS Richard Appleyard, Individually, and on behalf of all others similarly situated.</p> <p>(b) County of Residence of First Listed Plaintiff <u>Hardin</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys <i>(Firm Name, Address, and Telephone Number)</i> Michael L. Weinman, Weinman Thomas Law Firm P.O. Box 266, Jackson, TN 38302 (731) 423-5565</p>	<p>DEFENDANTS Murphy Oil USA, Inc.</p> <p>County of Residence of First Listed Defendant <u>N/A</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;"></td> <td style="width: 10%;"></td> <td style="width: 10%; text-align: center;">PTF</td> <td style="width: 10%; text-align: center;">DEF</td> <td style="width: 45%;"></td> <td style="width: 10%; text-align: center;">PTF</td> <td style="width: 10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td></td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td></td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td></td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><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 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
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IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

<p>CONTRACT</p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans <i>(Excludes Veterans)</i></p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p>TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p>FORFEITURE/PENALTY</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p>LABOR</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Employee Retirement Income Security Act</p> <p>IMMIGRATION</p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p>BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>	<p>OTHER STATUTES</p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>
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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):*
Title VII, codified at 42 U.S.C. § 2000(e) et. seq. and § 7 of the FLSA of 1938, as amended, 29 U.S.C. 201, et seq

Brief description of cause:
Violation of rights protected by Title VII of the Civil Rights Act of 1964, as amended & of § 7 of the FLSA of 1938

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ Compensatory + punitive damages \$150,000 less attorney fees CHECK YES only if demanded in complaint JURY DEMAND: Yes No

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

DATE: 11/10/2016 SIGNATURE OF ATTORNEY OF RECORD: /s/ Michael L. Weinman

FOR OFFICE USE ONLY

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

EEOC Form 161 (11/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Richard T. Appleyard
785 East Main Street
Savannah, TN 38372

From: Memphis District Office
1407 Union Avenue
Suite 901
Memphis, TN 38104

Empty checkbox

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

490-2015-00895

Jesus M. Santiago,
Investigator

(901) 544-0139

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- Empty checkbox: The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
Empty checkbox: Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
Empty checkbox: The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
Empty checkbox: Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
[X] The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
Empty checkbox: The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
Empty checkbox: Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission

Handwritten signature of Katharine W. Kores, Director

AUG 15 2016

Enclosures(s)

(Date Mailed)

cc: O. John Norris, III
Attorney for Respondent
MURPHY U.S.A
999 Shady Grove Road, Suite 110
Memphis, TN 38120

Bradley E. Byrne, Jr.
BECKUM KITTLE LLP
3108 Blue Lake Drive
Ste. 100
Birmingham, AL 35243

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

UNITED STATES DISTRICT COURT

for the

Western District of Tennessee

RICHARD APPELYARD, Individually,
and on behalf of all others similarly situated,

Plaintiff(s)

v.

MURPHY OIL USA, INC.

Defendant(s)

Civil Action No. 16-cv-1290

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Murphy Oil USA, Inc.
Registered Agent:
C T Corporation System
800 S. Gay Street, Ste. 2021
Knoxville, TN 37929-9710

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:

Michael L. Weinman
Weinman Thomas Law Firm
P.O. Box 266
112 S. Libety St., Ste. 321
Jackson, TN 38302
(731) 423-5565

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. 16-cv-1290

PROOF OF SERVICE

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

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

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

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

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

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

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

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

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Filed Against Murphy Oil USA Alleges Civil Rights Violations](#)
