

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JESSICA CABALLERO, individually and on behalf of all persons similarly situated,	:	<b>CIVIL ACTION NO.:</b>
	:	
Plaintiff,	:	
	:	
v.	:	<b>JURY TRIAL DEMANDED</b>
	:	
HEALTHTECH RESOURCES, INC.	:	<b>ELECTRONICALLY FILED</b>
	:	
Defendant.	:	
	:	

**CLASS AND COLLECTIVE ACTION COMPLAINT**

Plaintiff Jessica Caballero (“Plaintiff” or “Caballero”), through her undersigned counsel, individually and on behalf of all persons similarly situated, files this Class and Collective Action Complaint against Defendant HealthTECH Resources, Inc. (“Defendant” or “HealthTECH”), seeking all available relief under the Fair Labor Standards Act of 1938, 29 U.S.C. § 201, *et seq.* (“FLSA”), and Pennsylvania state law. Plaintiff alleges that she and other similarly situated consultants did not receive overtime pay for hours worked in excess of forty (40) in a workweek. The following allegations are based on personal knowledge as to Plaintiff’s own conduct and are made on information and belief as to the acts of others.

**JURISDICTION AND VENUE**

1. Jurisdiction over Plaintiff’s FLSA claim is proper under 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.
2. This Court has supplemental jurisdiction under 28 U.S.C. § 1367 over Plaintiff’s state law claims because those claims derive from a common nucleus of operative facts.
3. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(b)(2) in that a substantial

part of the events giving rise to Plaintiff's and Class Members' claims occurred within this judicial district. Plaintiff and other Class Members performed work in this judicial district and were paid pursuant to HealthTECH's unlawful pay policy in this judicial district, and HealthTECH routinely conducts business in this judicial district.

### **PARTIES**

4. Plaintiff Jessica Caballero is an individual residing in Kissimmee, Florida. Plaintiff Caballero worked for Defendant as an IT Consultant providing information technology support to HealthTECH's client, Heritage Valley Health System, in Pennsylvania, between approximately August 20, 2014 and September 21, 2014. Pursuant to 29 U.S.C. § 216(b), Plaintiff Caballero has consented in writing to being a Plaintiff in this action. *See* Exhibit A.

5. Defendant HealthTECH Resources, Inc. ("Defendant" or "HealthTECH") is a corporation providing information technology and educational services for the healthcare industry across the country. HealthTECH maintains its corporate headquarters in Phoenix, Arizona and is incorporated in Arizona.

6. HealthTECH employs individuals engaged in commerce or in the production of goods for commerce and/or handling, selling, or otherwise working on goods or materials that have been moved in or produced in commerce by any person, as required by 29 U.S.C. §§ 206-207.

7. HealthTECH's annual gross volume of sales made or business done exceeds \$500,000.

### **CLASS DEFINITIONS**

8. Plaintiff brings Count I of this lawsuit pursuant to the FLSA, 29 U.S.C. § 216(b) as a collective action on behalf of herself and the following opt-in litigants:

All individuals who performed consulting work for HealthTECH Resources, Inc. (“HealthTECH”) in the United States between February 20, 2014 and the present (the “FLSA Class”).

9. Plaintiff brings Counts II and III of this lawsuit as a class action pursuant to Fed.

R. Civ. P. 23, on behalf of herself and the following class:

All individuals who performed consulting work for HealthTECH Resources, Inc. (“HealthTECH”) in Pennsylvania between February 20, 2013\* and the present (the “Pennsylvania Class”).

10. The FLSA Class and the Pennsylvania Class are together referred to as the “Classes.”

11. Plaintiff reserves the right to redefine the Classes prior to notice or class certification, and thereafter, as necessary.

### **FACTS**

12. As a leading healthcare information technology firm, HealthTECH provides healthcare systems implementation support services, such as training and information technology support. HealthTECH employs IT Consultants, such as Plaintiff, who perform such information technology support services in the healthcare industry throughout the United States.

13. HealthTECH’s financial results are significantly driven by the number of consultants performing information technology support services for HealthTECH’s customers and the fees that HealthTECH charges the customers for these services.

14. From approximately August 20, 2014 through September 21, 2014, Plaintiff Caballero was employed as an IT Consultant by HealthTECH, and was assigned to work at Heritage Valley Health System, which is located within this judicial district in Pennsylvania.

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\* The statute of limitations on Plaintiff Caballero’s unjust enrichment claim is four years. Therefore, employees may be members of the Pennsylvania Class if they were employed on or after February 20, 2013, for at least one of the Claims alleged on behalf of the Pennsylvania Class.

15. Plaintiff and Class Members routinely worked in excess of forty (40) hours per workweek, but were not paid overtime compensation as required by the FLSA.

16. For instance, in the weeks of September 1, 2014 and September 8, 2014, Plaintiff Caballero worked in excess of forty (40) hours and was only paid a straight hourly rate.

17. Plaintiff and Class Members often required to work approximately ten (10) hours per day, seven (7) days per week.

18. Although Plaintiff and Class Members frequently were required, permitted or encouraged to work more than forty (40) hours per week, they did not receive one and one-half (1 ½) times their regular pay rate for hours worked in excess of forty (40) hours per week, as required by the FLSA and Pennsylvania state law.

19. Instead, Plaintiff and Class Members were paid a straight hourly rate for hours that they worked, regardless of whether they worked more than forty (40) hours in a week.

20. Plaintiff and Class Members were employed as information technology support workers for software applications and programs provided by HealthTECH. Plaintiff and Class Members were not working as computer systems analysts, computer programmers, or software engineers as defined in 29 C.F.R. § 541.400(a).

21. Plaintiff's and Class Members' duties consisted of providing software support to HealthTECH's healthcare clients and aiding healthcare staff with the new software. Plaintiff and Class Members' duties did not include the "application of systems analysis techniques and procedures" pursuant to 29 C.F.R. § 541.400(b)(1). Plaintiff and Class Members did not analyze, consult or determine hardware, software programs or any system functional specifications for HealthTECH's clients. *See id.*

22. Plaintiff and Class Members did not design, develop, document, analyze, create, test or modify a computer system or program as defined in 29 C.F.R. § 541.400(b)(2).

23. While Plaintiff's and Class Members' "work was highly dependent upon, or facilitated by, the use of computers and computer software programs;" they were not "primarily engaged in computer systems analysis and programming." U.S. Dept. of Labor, Wage & Hour Div., Fact Sheet #17E: Exemption for Employees in Computer-Related Occupations under the Fair Labor Standards Act (FLSA). Plaintiff and Class Members provided software support to HealthTECH's clients.

24. Plaintiff and Class Members were paid solely on an hourly basis and were paid only for the time they actually worked.

**COLLECTIVE ACTION ALLEGATIONS UNDER THE FLSA**

25. Plaintiff brings this lawsuit pursuant to 29 U.S.C. § 216(b) as a collective action on behalf of the FLSA Class as defined above.

26. Plaintiff desires to pursue her FLSA claim on behalf of all individuals who opt-in to this action pursuant to 29 U.S.C. § 216(b).

27. Plaintiff and the FLSA Class members are "similarly situated" as that term is used in 29 U.S.C. § 216(b) because, *inter alia*, all such individuals have been subject to HealthTECH's common business and compensation practices as described herein, and, as a result of such practices, have not been paid the full and legally mandated overtime premium for hours worked over forty (40) during the workweek. Resolution of this action requires inquiry into common facts, including, *inter alia*, HealthTECH's common misclassification, compensation and payroll practices.

28. Specifically, HealthTECH did not compensate Plaintiff and the FLSA Class one-

and-a-half (1 ½) times the regular rate for hours worked over forty (40) in a workweek.

29. The similarly situated employees are known to HealthTECH, are readily identifiable, and can easily be located through HealthTECH's business and human resources records.

30. HealthTECH employs many FLSA Class Members throughout the United States. These similarly situated employees may be readily notified of this action through U.S. mail and/or other means, and allowed to opt-in to this action pursuant to 29 U.S.C. § 216(b), for the purpose of collectively adjudicating their claims for overtime compensation, liquidated damages (or, alternatively, interest), and attorneys' fees and costs under the FLSA.

#### **CLASS ACTION ALLEGATIONS**

31. Plaintiff Caballero brings this action as a class action pursuant to Fed. R. Civ. P. 23 on behalf of herself and the Pennsylvania Class defined above.

32. The members of the Pennsylvania Class are so numerous that joinder of all members is impracticable. Upon information and belief, there are more than forty (40) members of the Pennsylvania Class.

33. Plaintiff Caballero will fairly and adequately represent and protect the interests of the Pennsylvania Class because there is no conflict between the claims of Plaintiff Caballero and those of the Pennsylvania Class, and Plaintiff Caballero's claims are typical of the claims of the Pennsylvania Class. Plaintiff Caballero's counsel are competent and experienced in litigating class actions and other complex litigation matters, including wage and hour cases like this one.

34. There are questions of law and fact common to the proposed Pennsylvania Class, which predominate over any questions affecting only individual Class members, including, without limitation, whether HealthTECH has violated and continues to violate Pennsylvania law

through its policy or practice of not paying its hourly employees overtime compensation.

35. Plaintiff Caballero's claims are typical of the claims of the Pennsylvania Class members in the following ways, without limitation: (a) Plaintiff Caballero is a member of the Pennsylvania Class; (b) Plaintiff Caballero's claims arise out of the same policies, practices and course of conduct that form the basis of the claims of the Pennsylvania Class; (c) Plaintiff Caballero's claims are based on the same legal and remedial theories as those of the Pennsylvania Class and involve similar factual circumstances; (d) there are no conflicts between the interests of Plaintiff Caballero and the Pennsylvania Class members; and (e) the injuries suffered by Plaintiff Caballero are similar to the injuries suffered by the Pennsylvania Class members.

36. Class certification is appropriate under Fed. R. Civ. P. 23(b)(3) because questions of law and fact common to the Pennsylvania Class predominate over any questions affecting only individual Class members.

37. Class action treatment is superior to the alternatives for the fair and efficient adjudication of the controversy alleged herein. Such treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would entail. No difficulties are likely to be encountered in the management of this class action that would preclude its maintenance as a class action, and no superior alternative exists for the fair and efficient adjudication of this controversy. The Pennsylvania Class members are readily identifiable from HealthTECH's own employment records. Prosecution of separate actions by individual members of the Pennsylvania Class would create the risk of inconsistent or varying adjudications with respect to individual Pennsylvania Class members that would establish incompatible standards of conduct for HealthTECH.

38. A class action is superior to other available methods for adjudication of this controversy because joinder of all members is impractical. Further, the amounts at stake for many of the Pennsylvania Class members, while substantial, are not great enough to enable them to maintain separate suits against HealthTECH.

39. Without a class action, HealthTECH will retain the benefit of its wrongdoing, which will result in further damages to Plaintiff Caballero and the Pennsylvania Class. Plaintiff Caballero envisions no difficulty in the management of this action as a class action.

**COUNT I**  
**FLSA – Overtime Wages**  
**(Brought on behalf of Plaintiff and the FLSA Class)**

40. All previous paragraphs are incorporated as though fully set forth herein.

41. The FLSA requires that covered employees be compensated for all hours worked in excess of forty (40) hours per week at a rate not less than one and one-half (1 ½) times the regular rate at which he is employed. *See* 29 U.S.C. § 207(a)(1).

42. The FLSA defines “employer” broadly to include “any person acting directly or indirectly in the interest of an employer in relation to an employee...” 29 U.S.C. § 203(d).

43. HealthTECH is subject to the wage requirements of the FLSA because HealthTECH is an “employer” under 29 U.S.C. § 203(d).

44. At all relevant times, HealthTECH has been an “employer” engaged in interstate commerce and/or in the production of goods for commerce, within the meaning of the FLSA, 29 U.S.C. § 203.

45. During all relevant times, Plaintiff and the FLSA Class members have been covered employees entitled to the above-described FLSA’s protections. *See* 29 U.S.C. § 203(e).

46. Plaintiff and the FLSA Class are not exempt from the requirements of the FLSA.

47. Plaintiff and the FLSA Class members are entitled to be paid overtime



compensation for all hours worked over forty (40) in a workweek pursuant to 29 U.S.C. § 207(a)(1).

48. HealthTECH, pursuant to its policies and practices, failed and refused to pay overtime premiums to Plaintiff and the FLSA Class members for all their overtime hours worked by misclassifying Plaintiff and the FLSA Class as exempt employees under the FLSA.

49. HealthTECH knowingly failed to compensate Plaintiff and the FLSA Class members at a rate of one and one-half (1 ½) times their regular hourly wage for hours worked in excess of forty (40) hours per week, in violation of 29 U.S.C. § 207(a)(1).

50. In violating the FLSA, HealthTECH acted willfully and with reckless disregard of clearly applicable FLSA provisions.

51. In violating FLSA, on information and belief, HealthTECH did not have any good faith basis to rely on any legal opinion or advice to the contrary.

**COUNT II**  
**Violation of the Pennsylvania Minimum Wage Act**  
**(Brought on Behalf of Plaintiff and the Pennsylvania Class)**

52. All previous paragraphs are incorporated as though fully set forth herein.

53. The Pennsylvania Minimum Wage Act of 1968 (“PMWA”) requires that covered employees be compensated for all hours worked in excess of forty (40) hours per week at a rate not less than one and one-half (1 ½) times the regular rate at which he is employed. *See* 43 P.S. § 333.104(c) and 34 Pa. Code § 231.41.

54. HealthTECH is subject to the overtime requirements of the PMWA because HealthTECH is an employer under 43 P.S. § 333.103(g).

55. During all relevant times, Plaintiff Caballero and the Pennsylvania Class members were covered employees entitled to the above-described PMWA's protections. *See* 43 P.S. § 333.103(h).

56. HealthTECH's compensation scheme that is applicable to Plaintiff Caballero and the Pennsylvania Class members failed to comply with either 43 P.S. § 333.104(c) or 34 Pa. Code § 231.41.

57. HealthTECH knowingly failed to compensate Plaintiff Caballero and the Pennsylvania Class members at a rate of one and one-half (1 ½) times their regular hourly wage for hours worked in excess of forty (40) hours per week, in violation of 43 P.S. § 333.104(c) and 34 Pa. Code § 231.41.

58. Pursuant 43 P.S. § 333.113, employers, such as HealthTECH, who intentionally fail to pay an employee wages in conformance with the PMWA shall be liable to the employee for the wages or expenses that were intentionally not paid, court costs and attorneys' fees incurred in recovering the unpaid wages.

59. In violating the PMWA, HealthTECH acted willfully and with reckless disregard of clearly applicable PMWA provisions.

**COUNT III**  
**Unjust Enrichment**  
**(Brought on Behalf of Plaintiff and the Pennsylvania Class)**

60. All previous paragraphs are incorporated as though fully set forth herein.

61. HealthTECH has received and benefited from the uncompensated labors of Plaintiff Caballero and the Pennsylvania Class members, such that to retain said benefit without compensation would be inequitable and rise to the level of unjust enrichment.

62. At all relevant times hereto, HealthTECH devised and implemented a plan to increase its earnings and profits by fostering a scheme of securing work from Plaintiff Caballero and the Pennsylvania Class members without paying overtime compensation for hours worked in excess of 40 a week.

63. Contrary to all good faith and fair dealing, HealthTECH induced Plaintiff Caballero and the Pennsylvania Class members to perform work while failing to pay overtime compensation for hours worked in excess of 40 a week as required by law.

64. By reason of having secured the work and efforts of Plaintiff Caballero and the Pennsylvania Class members without paying overtime compensation as required by law, HealthTECH enjoyed reduced overhead with respect to its labor costs, and therefore realized additional earnings and profits to its own benefit and to the detriment of Plaintiff Caballero and the Pennsylvania Class members. HealthTECH retained and continues to retain such benefits contrary to the fundamental principles of justice, equity, and good conscience.

65. Accordingly, Plaintiff Caballero and the Pennsylvania Class are entitled to judgment in an amount equal to the benefits unjustly retained by HealthTECH.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff seeks the following relief on behalf of themselves and all others similarly situated:

- a. An order permitting this litigation to proceed as a collective action pursuant to 29 U.S.C. § 216(b);
- b. Prompt notice, pursuant to 29 U.S.C. § 216(b), of this litigation to all potential members of the FLSA Class;
- c. An order permitting this litigation to proceed as a class action pursuant to Fed. R. Civ. P. 23 on behalf of the Pennsylvania Class;
- d. Back pay damages (including unpaid overtime compensation and unpaid wages)

- and prejudgment interest to the fullest extent permitted under the law;
- e. Liquidated damages to the fullest extent permitted under the law;
  - f. Litigation costs, expenses, and attorneys' fees to the fullest extent permitted under the law; and
  - g. Such other and further relief as this Court deems just and proper.

**JURY DEMAND**

Plaintiff demands a trial by jury for all issues of fact.

Dated: February 20, 2017

Respectfully submitted,

BERGER & MONTAGUE, P.C.

/s/ Shanon J. Carson

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Shanon J. Carson (PA 85957)  
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*Attorneys for Plaintiff and the Proposed Classes*

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† Application for Admission to be Filed  
‡ Application for Admission to be Filed

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

Jessica Caballero

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Shanon J. Carson, Sarah Schalman-Bergen, Eric Lechtzin BERGER & MONTAGUE, P.C., 1622 Locust Street, Phila. PA 19103 Tel: (215) 875-3000, Fax: (215) 875-4604

DEFENDANTS

HealthTECH Resources, Inc.

County of Residence of First Listed Defendant Maricopa County, Arizona (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)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, 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): Fair Labor Standards Act of 1938, 29 U.S.C. § 201, et seq. Brief description of cause: Defendant failed to pay IT consultant employees overtime for hours worked in excess of 40 per week.

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 02/20/2017 SIGNATURE OF ATTORNEY OF RECORD /s/Shanon J. Carson (PA 85957)

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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Save As...

Reset

JS 44A REVISED June, 2009  
IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
THIS CASE DESIGNATION SHEET MUST BE COMPLETED

**PART A**

This case belongs on the (  Erie  Johnstown  Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venang or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in \_\_\_\_\_ County and that the \_\_\_\_\_ resides in \_\_\_\_\_ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in \_\_\_\_\_ County and that the \_\_\_\_\_ resides in \_\_\_\_\_ County.

**PART B** (You are to check ONE of the following)

1.  This case is related to Number \_\_\_\_\_ . Short Caption \_\_\_\_\_
2.  This case is not related to a pending or terminated case.

**DEFINITIONS OF RELATED CASES:**

**CIVIL:** Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit

**EMINENT DOMAIN:** Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

**HABEAS CORPUS & CIVIL RIGHTS:** All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

**PART C**

**I. CIVIL CATEGORY** (Select the applicable category).

1.  Antitrust and Securities Act Cases
2.  Labor-Management Relations
3.  Habeas corpus
4.  Civil Rights
5.  Patent, Copyright, and Trademark
6.  Eminent Domain
7.  All other federal question cases
8.  All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9.  Insurance indemnity, contract and other diversity cases.
10.  Government Collection Cases (shall include HEW Student Loans (Education), V A Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

/s/ Shanon J. Carson

Date: 02/10/2017

\_\_\_\_\_

ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH ÔŠPRU MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

## 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 the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 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.



# Exhibit A

**OPT-IN CONSENT FORM**  
Unpaid Wages Litigation - HealthTech

**COMPLETE AND MAIL, FAX OR EMAIL THIS FORM TO:**

HealthTech Unpaid Wages Litigation  
Attn: Camille Fundora  
BERGER & MONTAGUE, P.C.  
1622 Locust Street  
Philadelphia, PA 19103  
Telephone: (215) 875-4635  
Facsimile: (215) 875-4604  
Email: cfundora@bm.net

Name: <u>Jessica Caballero</u> (Please Print)	Phone No.: [REDACTED]
Address: [REDACTED]	Email: [REDACTED]

**CONSENT TO JOIN COLLECTIVE ACTION**

**Pursuant to Fair Labor Standards Act, 29 U.S.C. § 216(b)**

- I consent and agree to pursue my claims arising out of alleged violations of the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* in connection with the above-referenced lawsuit.
- I have worked for HealthTech Resources, LLC ("Defendant" or "HealthTech") in **(state(s))** PA from on or about **(dates(s))** 8/2014 to on or about **(dates(s))** 9/2014.
- I understand that this lawsuit is brought under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et seq.* I hereby agree and opt-in to become an Opt-In Plaintiff herein and be bound by any judgment of the Court or any settlement of this action.
- I specifically authorize the Named Plaintiff and his attorneys, Berger & Montague, P.C. and Lichten & Liss-Riordan, P.C., as my agents to prosecute this lawsuit on my behalf and to negotiate a settlement of any and all claims I have against the Defendant in this case.

<u>Jessica Caballero</u> _____ (Date Signed)	<u>4/14/2016</u> _____ (Signature)
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**\*\*IMPORTANT NOTE\*\***

**Statute of Limitations concerns mandate that you return this form as soon as possible to preserve your rights.**

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

UNITED STATES DISTRICT COURT

for the

Western District of Pennsylvania

JESSICA CABALLERO

Plaintiff(s)

v.

HEALTHTECH RESOURCES, INC.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) HealthTECH Resources, Inc.
3620 E. Campbell Ave, Ste. C
Phoenix, AZ 85018

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: Shanon J. Carson, Sarah Schalman-Bergen, Eric Lechtzin BERGER & MONTAGUE, P.C., 1622 Locust Street, Phila. PA 19103 Tel: (215) 875-3000, Fax: (215) 875-4604

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

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

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

**PROOF OF SERVICE**

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

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

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

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

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

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

Other *(specify)*:

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

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

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

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

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

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

Additional information regarding attempted service, etc:

**Print**

**Save As...**

**Reset**

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [FLSA Complaint Filed Against HealthTECH Resources](#)

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