

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILE DIVISION

GREGORY GRIMES,)
individually and on behalf of)
others similarly situated,)
)
Plaintiffs,)
)
v.) CAUSE NO: 3:18-cv-518-RGJ
)
MODCO, INC.,)
)
Defendant.)

COLLECTIVE ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs, Gregory Grimes (“Grimes”), on his behalf and on behalf of others similarly situated (“Plaintiffs”), brings this action against Modco, Inc. (“Defendant”) for violations of the Fair Labor Standards Act, 29 U.S.C. §201 *et seq.* (“FLSA”), and states as follows:

OVERVIEW

1. Defendant has failed to pay Grimes and those similarly situated to him in accordance with the FLSA. Specifically, Defendant misclassified Plaintiffs as independent contractors, as opposed to employees, at all times in which they worked as delivery drivers for Defendant. As a result, Defendants failed to pay Plaintiff, and all other members of the proposed class, overtime compensation that they were entitled to under the FLSA. Furthermore, Plaintiffs were deprived of all other perquisites of employment, such as paid time off and participation in Defendant’s 401(k) plan.

Plaintiff brings this action pursuant to 29 U.S.C. §216(b).

PARTIES

2. Grimes is an individual who resides in Kentucky. He was employed by Defendant within the meaning of the FLSA within the three-year period preceding the filing of this complaint. At all times hereinafter mentioned, Grimes was an individual employee who was engaged in commerce or in the production of goods for commerce as required by 29 U.S.C. §206. His written consent is attached as Exhibit A.

3. Zip Express, Inc. is a Kentucky corporation doing business as a logistics company in and around the Louisville area. Defendant acted, directly or indirectly, in the interest of an employer with respect to Plaintiff.

4. Defendant is an "employer" within the meaning of 29 U.S.C. § 203(d), (r) and (s).

JURISDICTION AND VENUE

5. This court properly has jurisdiction under 28 U.S.C. § 1331, because Plaintiff brings a claim arising under federal law, specifically, the FLSA.

6. Venue is proper in this District because the Defendant may be found herein, and a substantial portion of the events giving rise to this claim occurred within this District. Therefore, venue is proper in this court pursuant to 29 U.S.C. §216(b).

FLSA COVERAGE

7. At all times hereinafter mentioned, Defendant has been an enterprise within the meaning of Section 3(r) of the FLSA, 29 U.S.C. § 203(r).

8. At all times hereinafter mentioned, Defendant has been an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Section 3(s)(1) of the FLSA, 29 U.S.C. § 203(s)(1), in that the enterprise has had employees engaged in commerce or in the production of goods for commerce, or employees handling, selling or otherwise working on goods or materials that have been moved in or produced for commerce by any person and in that the enterprise has had and has an annual gross volume of sales made or business done of not less than \$500,000.

FACTS

9. Defendant employed Grimes as a Driver from on or about October 29, 2012 until May 19, 2018.

10. Defendant is in the logistics business.

11. In furtherance of Defendant's business, Defendant employed Plaintiff and other employees (collectively "Drivers") to deliver their customers' products to their destination.

12. Drivers were required to arrive at the Defendant's facility before the truck each weekday, which meant they had to arrive at approximately 5:00 am to unload and separate the truck full of the items to deliver for the day. The unloading and separating took approximately 2 hours each day.

13. At approximately 7:00 am each weekday, Grimes would embark on an approximate 120 mile drive from the warehouse to his first delivery.

14. Between approximately 9:00 am and 2:00 pm each weekday, Grimes would deliver medical and other goods to Defendant's customers.

15. Between October 2012 and December 2017, Grimes was required to work the following route ("Route 1"):

- Stop #1. Paul B. Haul Hospital in Paintsville, KY. Delivered Cardinal Health and Blood.
- Stop #2. Value Med in Paintsville, KY. Delivered Smith Drug and Miami Luken.
- Stop #3. Mountain Apothecary in Paintsville, KY. Delivered Miami Luken.
- Stop #4. Med Zone Pharmacy in Prestonsberg, KY. Delivered Smith Drug and Miami Luken.
- Stop #5. Highlands Regional Medical Center in Prestonsberg, KY. Delivered Blood.
- Stop #6. Cooley Medical in Prestonsberg, KY. Delivered Cardinal Health.
- Stop #7. Value Med in Prestonsberg, KY. Delivered Smith Drug and Miami Luken.
- Stop #8. Gary's Pharmacy in Salyersville, KY. Delivered Miami Luken.
- Stop #9. Hope Pharmacy in Salyersville, Ky. Delivered Cardinal Health.
- Stop # 10. Wolfe Family Pharmacy in Campton, KY. Delivered Cardinal Health.

16. Grimes was required by Defendant to make the aforementioned stops in order each day and was required to hit specific target times for each stop. Grimes ran this route Monday through Friday each week during the stated period. He was paid \$159.93 per day for running Route 1.

17. Between December 2017 and May 2018, Grimes ran a different route from Monday through Friday each week. Route 2 was as follows:

- Stop #1. Med Save Pharmacy in Martin, KY. Delivered Cardinal Health.
- Stop #2. Saint Joseph Hospital in Martin, KY. Delivered Blood.
- Stop #3. Medicine Market in Martin, KY. Delivered Miami Luken.
- Stop #4. CVS in South Williamson, KY. Delivered Cardinal Health.

- Stop #5. Hurley Drug in Williamson, WV. Delivered HD Smith/ Miami Luken.
- Stop #6. Family Pharmacy in South Williamson, KY. Delivered Smith Drug.
- Stop #7. South Williamson ARH in South Williamson, KY. Delivered Blood.
- Stop #8. Field's Medical in Inez, KY. Delivered Miami Luken.
- Stop #9. Martin Community Health in Inez, KY. Delivered Cardinal Health.
- Stop #10. Louisa Drug in Louisa, KY. Delivered Miami Luken.
- Stop #11. Riverview Pharmacy in Louisa, KY. Delivered Miami Luken.

18. Grimes was required by Defendant to make the aforementioned stops in order each day and was required to hit specific target times for each stop. Grimes was paid \$173.00 per day for running Route 2.

19. At approximately 2pm each weekday, Grimes would embark on the approximate 120 mile drive back to the Defendant's warehouse.

20. Between April 2013 and May 2018, Grimes ran a Saturday Route as well. Grimes' route was as follows:

- Stop #1. Medicine Shoppe in Somerset, KY. Delivered Cardinal Health.
- Stop #2. Walmart in Somerset, KY. Delivered Walmart.
- Stop #3. Walmart in Monticello, KY. Delivered Walmart.
- Stop #4. Silver's Pharmacy in Monticello, KY. Delivered Cardinal Health.
- Stop #5. Dyer Drug in Albany, KY. Delivered Cardinal Health.
- Stop #6. Capps Pharmacy in Burkesville, KY. Delivered Cardinal Health.
- Stop #7. Walmart in Columbia, KY. Delivered Walmart.

21. Grimes would arrive at 7am on Saturdays to identify what needed to be delivered and load his van. He would embark on the 40 mile trip to Somerset for his first delivery. He would return to the warehouse at approximately 2pm each Saturday. Grimes was paid \$198 per day for performing his Saturday Route.

22. When Grimes would arrive back to the warehouse, he would have to empty his van of all empty totes/ returns and place them in their designated locations. He would then proceed to complete and file paperwork for all my stops. Grimes estimates that he would spend an additional 30 minutes per day performing these duties.

23. In addition to running his route, on weekdays between June 2015 and June 2017, Grimes sorted items at the warehouse overnight. Grimes would arrive at the warehouse at 12am and wrap 12-14 pallets of empty totes/ returns. From 1am- 2am, Grimes would complete the warehouse manager's paperwork. At 2am, Grimes would scan in and sort the Smith Drug truck by routes which took until 4am. Grimes was paid \$80 per overnight and would work overnight from Monday through Friday.

24. During the relevant time period, Defendant classified Grimes and other Drivers, as an independent contractor.

25. Plaintiff was not permitted to work for any other transportation or logistics company while he was employed by Defendant; nor was he allowed to transport products for any other customer.

26. Between June 2015 and June 2017, Grimes was required to work Monday through Friday from midnight to approximately 3:30 pm. He was also required to work 7am to 2:30pm on Saturdays. Grimes averaged working 85 hours per week, but did not receive 1.5 times his regular rate for hours worked over 40 each week. Between June 2017 and May 2018, Grimes averaged working 60 hours each week.

27. Defendant set Grimes' schedule, determined the sequence in which he made deliveries, and controlled a variety of aspects related to the conduct and appearance of the Drivers, including Grimes.

28. Managers and other employees of Defendant supervise Drivers during their shifts and enforce the Defendants' policies, procedures and rules against Drivers, including disciplining or terminating a Driver for their non-compliance.

29. Defendant controls all of its own advertising and promotion. Plaintiffs did not have any control over advertising and promotion for Defendant.

30. Plaintiffs do not make any capital investment in Defendant's facilities, advertising, maintenance, or other inventory.

31. At all relevant times, Defendant was exclusively responsible for the maintenance of its facility, inventory, and obtaining all appropriate business insurance and licensing.

32. Drivers do not operate their own individual businesses.

COLLECTIVE ACTION FACTUAL ALLEGATIONS

33. Plaintiff are similarly situated to other Drivers in that the practice and policy of misclassifying Drivers as independent contractors has affected all current and former Drivers who worked for Defendant ("Members of the Class").

34. Plaintiffs and the Members of the Class all were subject to Defendant's common business policy of failing to pay wages or overtime or any benefits that it offered to its other employees to the Drivers.

35. There are questions of fact and law common to the class, including the

following:

- a. Whether Defendant controls Drivers' schedules.
- b. Whether Defendant controls what Drivers wear during work hours;
- c. Whether Defendant controls prices for the deliveries Driver's make;
- d. Whether Defendant controls how and in what order Drivers deliver their

route;

- e. Whether Drivers own and operate their own individual businesses.
- f. Whether Drivers can realize a profit or loss from their work.
- g. Whether Drivers have made any capital investments in Defendant or their

facilities.

- h. Whether Defendants improperly classify Drivers as independent

contractors.

- i. Whether Defendants fail to pay Drivers overtime wages.
- j. Whether Defendants are liable to Drivers for attorney's fees associated

with this action.

- k. Whether Defendants failure to pay Drivers minimum wage and overtime is "willful" under the FLSA.

- l. Whether Defendants are liable to Drivers for liquidated damages under 29 U.S.C. 216(b).

36. Defendants failure to pay minimum wage as required by the FLSA results from a policy or practice applicable to Plaintiffs and the Members of the Class.

Application of this policy or practice does not depend on the personal circumstances of

the Plaintiffs or those joining this lawsuit. Rather the same policy or practice that resulted in the non-payment of overtime and other benefits to Plaintiffs applied to all Members of the Class. Accordingly, the class is properly defined as:

All current and former employees of Defendant who worked as Drivers.

37. Defendant knowingly, willfully or with reckless disregard carried out its illegal pattern or practice of failing to pay minimum wage and overtime compensation with respect to Plaintiff and the Members of the Class.

LEGAL ALLEGATIONS

FAILURE TO PAY WAGES IN ACCORDANCE WITH THE FAIR LABOR STANDARDS ACT

38. Plaintiffs re-allege and incorporate the preceding paragraphs of this Complaint as fully set forth herein.

39. During the (3) three years preceding this action, or at the commencement of employment (whichever is applicable), Defendant has violated and is violating the provisions of 29 U.S.C. §§ 203 and 206 by employing employees in an enterprise engaged in commerce or in the production of goods for commerce within the meaning of the FLSA as aforesaid, without properly and legally compensating these employees for their employment.

40. Defendants have acted willfully in failing to pay Plaintiffs in accordance with the law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this court find for them and grant them the following relief:

- a. An Order pursuant to Section 16(b) and 203(m) of the FLSA finding Defendant liable for unpaid back wages due to Plaintiffs and for liquidated damages equal in amount to the unpaid compensation found due to him;
- b. An Order awarding Plaintiffs (and those who have joined in the suit) their lost wages caused by Defendant's misclassification;
- c. An Order awarding Plaintiffs (and those who have joined in the suit) the costs of this action;
- d. An Order awarding Plaintiffs (and those who have joined in the suit) their attorney's fees;
- e. An Order awarding Plaintiffs (and those who have joined in the suit) pre-judgment and post-judgment interest at the highest rates allowed by law;
- f. An Order enjoining future violations of the FLSA; and
- g. An Order granting such other and further relief as may be necessary and appropriate.

Respectfully submitted,

BIESECKER DUTKANYCH & MACER, LLC

By: /s/ Andrew Dutkanych III
Andrew Dutkanych III, Atty No. 23551-49
411 Main Street
Evansville, Indiana 47708
Telephone: (812) 424-1000

Facsimile: (812) 424-1005
Email: ad@bdlegal.com
Attorneys for Plaintiff, Gregory Grimes

DEMAND FOR JURY TRIAL

Plaintiffs, individually and on behalf of others similarly situated, by counsel,
request a trial by jury on all issues deemed so triable.

Respectfully submitted,

BIESECKER DUTKANYCH & MACER, LLC

By: /s/ Andrew Dutkanych III
Andrew Dutkanych III, Atty No. 23551-49
411 Main Street
Evansville, Indiana 47708
Telephone: (812) 424-1000
Facsimile: (812) 424-1005
Email: ad@bdlegal.com
Attorneys for Plaintiff, Gregory Grimes

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS

GREGORY GRIMES, individually and on behalf of others similarly situated,

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

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

Andrew Dutkanych III, BIESECKER DUTKANYCH & MACER, LLC
411 Main Street, Evansville, Indiana 47708, (812) 424-1000

DEFENDANTS

MODCO, INC.

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

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

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES				
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act				
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PRISONER PETITIONS <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutional of State 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):
29 U.S.C. §201 et seq.

Brief description of cause:
Plaintiff alleges violations of the Fair Labor Standards Act by Defendant.

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 08/03/2018 SIGNATURE OF ATTORNEY OF RECORD /s/Andrew Dutkanych III

FOR OFFICE USE ONLY

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

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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.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Fmr. Delivery Driver Sues Modco Over Alleged Wage Violations](#)
