

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ERIN E. KIS, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

COVELLI ENTERPRISES, INC.,

Defendant.

No.

**COLLECTIVE AND CLASS
ACTION COMPLAINT**

Jury Trial Demanded

Plaintiff, Erin E. Kis, individually and on behalf of all others similarly situated, alleges as follows:

NATURE OF THE ACTION

1. Plaintiff brings this lawsuit as a collective action for Defendant's violation of the Federal Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq. ("Collective Claim"), and as a class action under Fed. R. Civ. P. 23 for Defendant's violation of the Ohio Minimum Fair Wage Standards Law, Ohio Revised Code § 4111.01 et seq. ("Ohio Class Claim").

2. Upon information and belief, Defendant owns and operates more than 300 Panera Bread franchises and is the country's largest Panera Bread franchisee.

3. As the FLSA and OMFWS allow, Plaintiff seeks to represent current and former Panera Bread assistant managers whom Defendant (i) employs or employed in the United States; and (ii) to whom Defendant failed to pay overtime for work performed beyond 40 hours per week.

4. The groups described in paragraph 3 populate two classes:

Federal Collective Group

All individuals whom Defendant employs or employed as Panera Bread assistant managers in the United States for three years before this complaint's filing date ("Federal Eligibility Period") who timely opt into this collective group.

Ohio Class

All individuals whom Defendant employs or employed as Panera Bread assistant managers in Ohio for two years before this complaint's filing date ("Ohio Class Period").

5. Defendant violated § 207 of the FLSA by failing to pay the Federal Collective Group overtime for all hours worked beyond 40 hours in any week.

6. Defendant violated Ohio Revised Code § 4111.03 because it failed to pay Ohio Class members overtime of one and one-half times their regular rate for all hours worked beyond 40 hours in any week.

7. Defendant's FLSA and OMFWS violations caused it to underpay Plaintiff and Federal Collective Group and Ohio Class members.

JURISDICTION AND VENUE

8. This Court has jurisdiction over Plaintiff's claims under 28 U.S.C. § 1331, 28 U.S.C. § 1332(d), and 28 U.S.C. § 1367.

9. Venue is proper under because Defendant resides in this district, 28 U.S.C § 1391(b)(1), and a substantial part of the events or omissions giving rise to Plaintiff's claim occurred here.

PARTIES

10. Plaintiff resides in Medina County, Ohio.

11. During the Federal Eligibility Period and the Ohio Class Period, Plaintiff worked as an assistant manager at a Panera Bread store that Defendant owned and operated.

12. During the Federal Eligibility Period and the Ohio Class Period, Plaintiff was not a “professional” as defined in 29 C.F.R. § 541.300(a). Likewise, Plaintiff did not perform executive or administrative functions as defined in 29 C.F.R. § 541.200(a).

13. Defendant was and is an Ohio corporation with its principal place of business at 3900 E. Market St., Warren, Ohio 44484.

14. According to Defendant’s website, it operates Panera Bread franchises in Ohio, Florida, Georgia, Kentucky, North Carolina, Pennsylvania, and South Carolina.

COLLECTIVE-ACTION ALLEGATIONS

15. Under the FLSA, § 216(b), Plaintiff brings this action on behalf of herself and the Federal Collective Group.

16. Plaintiff is informed and believes Defendant operates over 300 Panera Bread restaurants in the United States.

17. Plaintiff is similarly situated to the Federal Collective Group members because she, like they, worked for Defendant as a Panera Bread assistant manager during the Federal Eligibility Period and worked overtime hours without receiving overtime compensation. As a result, she and the Federal Collective Group members share common legal and factual questions. This commonality provides her a well-defined community of interest with the Federal Collective Group such that she is its adequate representative.

18. The following common legal and factual questions to the Federal Collective Group predominate over questions that may affect only individual members:

- a. Whether Defendant failed to properly compensate them for overtime hours worked as required by the FLSA;
- b. Whether the Federal Collective Group has been damaged and, if so, the extent of its members' damages; and
- c. Whether Defendant willfully violated the FLSA and, if so, to what extent.

CLASS ACTION ALLEGATIONS

19. Under Rule 23, Plaintiff also brings this action on behalf of herself and the Ohio Class.

20. Plaintiff believes hundreds—perhaps thousands—of identifiable Ohio Class members exist. For this reason, the Ohio Class is so numerous that joinder of all its members is impractical.

21. Common legal and factual questions predominate over individual questions that may affect the Ohio Class such as:

- a. Whether, as required by the OMFWS (including Ohio Revised Code § 4111.03), Defendant failed to properly compensate the Ohio Class for overtime hours worked;
- b. Whether Defendant damaged the Ohio Class and, if so, the extent of its members' damages; and
- c. Whether the Ohio Class is entitled to penalties and, if so, the extent of these penalties.

22. Plaintiff is asserting claims that are typical of Ohio Class members' claims.

23. Plaintiff will fairly and adequately represent and protect Ohio Class members' interests and has no antagonistic interests. She has retained attorneys who are competent and experienced in prosecuting collective and class-action litigation.

24. Defendant's misconduct damaged Plaintiff and the Ohio Class. Because their damages are small, they cannot afford to file individual complaints. For this reason, a class action is the superior and efficient way for them to adjudicate their claims.

FACTS

25. Defendant owns and operates over 300 Panera Bread franchises in Ohio, Florida, Georgia, Kentucky, North Carolina, Pennsylvania, and South Carolina.

26. Plaintiff worked for Defendant as an assistant manager at a Panera Bread restaurant Wadsworth, Ohio in Medina County.

27. Plaintiff was not an exempt employee under the FLSA.

28. Defendant did not pay Plaintiff for her hours worked beyond 40 per week, as the law requires.

29. Plaintiff regularly worked more than 40 hours per week.

30. Defendant required Plaintiff, the Federal Collective Group, and the Ohio Class to work more than 40 hours per week.

31. Defendant knew it was not paying Plaintiff, the Federal Collective Group, and the Ohio Class for hours worked beyond 40 hours per week.

32. Neither Plaintiff nor Federal Collective Group were professionals, they did not perform executive or administrative functions as defined by the FLSA, and they were not exempt from the overtime requirements of the FLSA or Ohio Revised Code § 4111.03.

COUNT I Violation of FLSA § 207 (On behalf of the Federal Collective Group)

33. Plaintiff incorporates by reference the preceding allegations.

34. Section 207(a)(1) of the FLSA provides the basis for Plaintiff's claim:

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.

35. Though § 213(a)(1) describes an exemption for employees in executive, administrative, or professional capacities, this exemption does not apply the Federal Collective Group.

36. In all respects material to Plaintiff's FLSA claim, Defendant's employment practices were and are uniform throughout the states where it operates its Panera Bread franchises.

37. Because of Defendant's failure to pay overtime, it damaged Plaintiff and the Federal Collective Group in an amount Plaintiff will prove at trial.

38. Defendant's FLSA violation was willful in that Defendant knowingly, deliberately, and intentionally failed to pay overtime to Plaintiff and the Federal Collective Group.

39. As the FLSA requires, Plaintiff demands that Defendant pay her and the Federal Collective Group overtime compensation for every hour of overtime worked in any work week that Defendant did not pay them, as well as liquidated damages, interest, and attorneys' fees.

COUNT II
Violation of Ohio Revised Code § 4111.03
(On behalf of the Ohio Class)

40. Plaintiff incorporates by reference the preceding allegations.

41. Ohio Revised Code § 4111.03 adopts the exemptions from FLSA §§ 7 and § 13.

42. During the Class Period, Defendant employed Plaintiff and the Ohio Class. Though they regularly work or worked more than 40 hours per week, Defendant compensated them entirely on salary and with no premium pay for hours worked beyond 40.

43. Because of Defendant's failure to pay Plaintiff and the Ohio Class overtime, Defendant damaged them in an amount they will prove at trial.

44. Plaintiff and the Ohio Class are employees within the meaning of the Ohio Prompt Pay Act, Ohio Revised Code § 4113.15 et seq.

45. Defendant violated and continues to violate the OPPA because of its willful failure to correctly compensate Plaintiff and the Ohio Class within 30 days of their performing work.

46. Plaintiff and the Ohio Class are entitled to compensation, including liquidated damages, penalties, six percent interest on all compensatory damages, attorneys' fees, and costs, and any other remedies available.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself and the Federal Collective Group and the Ohio Class, request the following relief:

- a. An order certifying this action as a collective action and a class action on behalf of the Federal Collective Group and the Ohio Class, respectively;
- b. Compensatory damages at one and one-half the regular rate of pay for all hours worked beyond 40 a week in an amount Plaintiff will prove at trial;
- c. Liquidated damages at one and one-half the regular rate of pay for all hours worked beyond 40 a week in an amount Plaintiff will prove at trial;
- d. Liquidated damages in an amount equal to six percent of the unpaid overtime or \$200, whichever is greater;

- e. Reasonable attorneys' fees;
- f. Costs of suit;
- g. Prejudgment and postjudgment interest;
- h. Other relief as this Court may deem necessary and appropriate.

Dated: January 9, 2018

s/Daniel R. Karon

Daniel R. Karon (0069304)

Beau D. Hollowell (0080704)

KARON LLC

700 W. St. Clair Ave., Suite 200

Cleveland, OH 44113

Tel: (216) 622-1851

Fax: (216) 241-8175

Email: dkaron@karonllc.com

bhollowell@karonllc.com

Randall S. Newman (*pro hac vice*)

Robert Abrams (*pro hac vice*)

Correy A. Kamin (*pro hac vice*)

WOLF HALDENSTEIN ADLER

FREEMAN & HERZ LLP

270 Madison Avenue

New York, NY 10016

Tel.: (212) 545-4600

Fax: (212) 545-4653

Email: newman@whafh.com

abrams@whafh.com

kamin@whafh.com

Attorneys for Plaintiff and the classes

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

Erin E. Kis, on behalf of herself and all others similarly situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
Daniel R. Karon and Beau D. Hollowell
Karon LLC, 700 West St. Clair Avenue, Suite 200
Cleveland, Ohio 44113, (216) 622-1851

DEFENDANTS

Covelli Enterprises, Inc.

County of Residence of First Listed Defendant Trumbull
(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 checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" 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	FOREFEITURE/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	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 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 <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

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. Sections 201, et seq.

Brief description of cause:

Violation of the Federal Fair Labor Standards Act; Violation of the Ohio Minimum Fair Wage Standards Law

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

01/09/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ Daniel R. Karon

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

I. Civil Categories: (Please check one category only).

- 1. General Civil
- 2. Administrative Review/Social Security
- 3. Habeas Corpus Death Penalty

*If under Title 28, §2255, name the SENTENCING JUDGE: _____

CASE NUMBER: _____

II. **RELATED OR REFILED CASES.** See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action: is RELATED to another PENDING civil case is a REFILED case was PREVIOUSLY REMANDED

If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.

III. In accordance with Local Civil Rule 3.8, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER. UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE, ANSWER IT AND STOP.

(1) **Resident defendant.** If the defendant resides in a county within this district, please set forth the name of such county

COUNTY: Trumbull

Corporation For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.

(2) **Non-Resident defendant.** If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred.

COUNTY:

(3) **Other Cases.** If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.

COUNTY:

IV. The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section III, please check the appropriate division.

EASTERN DIVISION

AKRON

(Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne)

CLEVELAND

(Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake,

Lorain, Medina and Richland)

YOUNGSTOWN

(Counties: Columbiana, Mahoning and Trumbull)

WESTERN DIVISION

TOLEDO

(Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca VanWert, Williams, Wood and Wyandot)

JS 44 Reverse (Rev. 06/17)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

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

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

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

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Ohio



Erin E. Kis, on behalf of herself and all others similarly situated,

Plaintiff

v.

Covelli Enterprises, Inc.

Defendant

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)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Covelli Enterprises, Inc.
3900 East Market Street
Warren, Ohio 44484

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:

Daniel R. Karon and Beau D. Hollowell
700 West St. Clair Avenue, Cleveland, OH 44113

Randall S. Newman, Robert Abrams and Correy A. Kamin,
270 Madison Avenue, New York, NY 10016

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.

SANDY OPACICH, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

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:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Former Panera Bread Assistant Manager Sues Over Unpaid OT Claims](#)
