

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

-----	X
	:
JESSE LYNN and BELINDA DARNELL,	:
on behalf of themselves and all	:
similarly situated employees,	:
	:
<i>Plaintiffs,</i>	:
	:
v.	:
	:
ARC OF FAYETTE COUNTY	:
	:
<i>Defendant.</i>	:
-----	X

Civil Action No. _____

**INDIVIDUAL AND CLASS AND
COLLECTIVE-ACTION COMPLAINT**

Jury Trial Demanded

Electronically Filed

INDIVIDUAL AND CLASS AND COLLECTIVE/CLASS ACTION COMPLAINT

Nature of the Action, Jurisdiction, and Venue

1. This is a collective/class action under the Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. §§ 207(a) & 216(b), and the Pennsylvania Minimum Wage Act (PMWA), 43 P.S. §§ 333.104(c) & 333.113, to recover damages for non-payment of statutorily required wages.
2. Jurisdiction of this court is invoked under 28 U.S.C. § 1331 and, for the supplemental state claim, 28 U.S.C. § 1367(a).
3. The actions and policies alleged to be unlawful were committed in whole or in part around Fayette County, Pennsylvania, where Plaintiffs live and worked for Defendant, This action is within the jurisdiction of, and venue is proper in, the United States District Court for the Western District of Pennsylvania.

Parties

4. Plaintiff Jesse Lynn resides at 423 Greenfield Road, Vanderbilt, Fayette County, Pennsylvania. Plaintiff Jesse Lynn worked for Defendant ARC of Fayette County from on or around July 1, 2004 until on or around March 30, 2017
5. Plaintiff Belinda Darnell resides at 423 Greenfield Road, Vanderbilt, Fayette County, Pennsylvania. Plaintiff Belinda Darnell worked for Defendant ARC of Fayette County from in or around 2005 to on and around March 31, 2017.
6. Defendant ARC of Fayette County provides services to disabled and elderly persons in Fayette County Pennsylvania. Defendant maintains its headquarters at 80 Old New Salem Road, Uniontown, Fayette County, Pennsylvania.
7. At all relevant times Defendant has been an enterprise engaged in activities affecting interstate commerce, pursuant to 29 U.S.C §202 of the Fair Labor Standards Act.
8. Defendant regularly employed individuals in the state of Pennsylvania, including Plaintiffs, in the performance of work on behalf of Defendant and its clients.

Statement of Claims

9. Defendant employed Plaintiff Jesse Lynn in the position of Family Support Person in its Home Supports Programs, providing “Home and Community” services, from on or about July 1, 2004. Plaintiff held that position until March 30, 2017.
10. Defendant employed Plaintiff Belinda Darnell in the position of Family Support Person in its Home Support Programs from in or about 2004, and Plaintiff held that position until March 31, 2017.
11. Defendant’s clients in its Home Supports Programs include individuals with disabilities affecting their ability to function to various degrees in their daily activities.

12. As Family Support Persons, Plaintiffs were assigned to Defendant's "Home and Community" activities of Defendant's Home Support Programs to provide direct care and support services to individuals with developmental disabilities in their homes and in community settings.
13. Plaintiffs traveled to clients' homes to perform their duties.
14. When not performing duties at the clients' homes, or traveling back and forth to the clients, Plaintiffs performed work from their home in Vanderbilt, Pennsylvania.
15. Plaintiff Jesse Lynn, prior to September 1, 2014, was paid \$11 per hour as an "employee" with all payments subject to withholdings applicable to wages.
16. On or about September 1, 2014, Defendant raised Plaintiff Jesse Lynn's hourly rate to \$14 an hour for all his hours worked, and declared him to be a "Family Support Person - Contracted". No withholdings were taken from his wages from September 1, 2014 forward.
17. That arrangement persisted until Plaintiff Jesse Lynn left the job.
18. Plaintiff Jesse Lynn regularly worked in excess of 40 hours in many workweeks.
19. Defendant paid no overtime premium to Plaintiff Jesse Lynn for hours worked over 40 hours in a week.
20. Additionally, Defendant did not pay Plaintiff Jesse Lynn for all the hours he worked in many workweeks.
21. During the period extending from on or about July 1, 2004 to March 30, 2017, Plaintiff Jesse Lynn prepared and submitted time sheets and reports on a semi-monthly basis which indicated that he worked more than 40 hours in many workweeks. The timesheets

did not include all the time that he worked.

22. Defendant did not instruct Plaintiff Jesse Lynn as to what duties he performed and what hours he worked were compensable and to be recorded.
23. Plaintiff Belinda Darnell was employed by Defendant as a Family Support Person in Defendant's Home Service Supports Programs providing "Companionship", "Home and Community Services", and "Respite" services to Defendant's clients.
24. From on or about 2006, to March 31, 2017, Plaintiff Belinda Darnell only provided "Companionship" and "Respite" services to clients.
25. From on or about 2006 to March 31, 2017, Plaintiff Belinda Darnell was paid a flat rate per day to provide "Companionship" services. Her final day rate was \$60 per day for 5 days worked of 7 hours each or 35 hours a week.
26. From on or about 2006 to March 31, 2017 Plaintiff Belinda Darnell was paid a flat rate of \$90 per day for a 24 hour workday, on 28 days in each year for providing "Respite" services to Defendant's clients. These hours were in addition to the hours spent in providing "Companionship" services
27. In 28 weeks in each year from on or about 2006 to on or about June 30, 2016, Plaintiff Belinda Darnell worked a total of 59 hours a week and was paid no overtime compensation for hours worked over 40 in those workweeks.
28. Beginning on or about July 1, 2016 until March 31, 2017, Plaintiff Belinda Darnell assumed the tasks of providing "Home and Community" services to Defendant's clients and was paid \$14 an hour for 16 hours each week for providing such services.
29. During the period on or about July 1, 2016 to March 31, 2017, Plaintiff Belinda Darnell worked a total of 51 hours in each workweek and was paid no overtime compensation for hours worked over 40 in any workweek.

30. During the period from on or about 2006 to March 31, 2017, Plaintiff Belinda Darnell prepared and submitted time sheets and reports on a semimonthly basis which indicated that Plaintiff Belinda Lynn worked more than 40 hours a week in many workweeks. The timesheets did not include all the time she worked.
31. Defendant did not instruct Plaintiff Belinda Darnell as to what duties she performed and what hours she worked were compensable and to be recorded.
32. Defendant required Plaintiffs and all other employees in its Home Services Programs to attend job related training for 30 hours in each year. Those hours were not recorded as work time, or paid.
33. Plaintiffs were not exempt from the payment of the minimum wage or overtime compensation pursuant to any provision of the FLSA or PMWA.
34. Plaintiffs were entitled to be paid for all their hours worked for Defendant.
35. Plaintiffs were entitled to be paid the minimum wages and overtime compensation required by the FLSA and PMWA. 29 U.S.C. §206(a); 29 U.S.C. §207(a); 43 P.S. §104(a); 43 P.S. §43 P.S. 333.104(c).
36. Defendant was aware of all the hours worked by Plaintiffs and failed to keep records of all hours worked as required by the FLSA and PMWA. 29 U.S.C. §211(c); 42 P.S. §333.108.
37. Defendant was aware of the requirements of the FLSA and PMWA to pay for all the hours worked by Plaintiffs and did not do so.
38. Defendant changed the status of Plaintiff Jesse Lynn on September 1, 2014, from that of employee to Family Support Person-Contracted to avoid the payment of overtime.
39. Defendant willfully and deliberately violated the FLSA and PMWA.

Collective/Class Action Averments

41. In the past three years Defendant has employed 70 to 100 individuals in its Home Support Programs.
42. Employees in Defendant's Home Support Programs travel around Fayette County to provide direct care and support services to Defendant's clients with developmental disabilities in a community setting.
43. The employees in Defendant's Home Support Programs provide the services of, "Home and Community," "Rehabilitation," "Companion Services," or "Respite" for Defendant's clients.
44. Home Support Programs employees are paid hourly, by day rates, or a combination of the two, depending on which of the Programs services or combination of Programs services they provide.
45. Employees of Defendant's Home Support Programs regularly work more than forty hours per week.
46. Defendant failed to maintain accurate records of time worked by its employees in its Home Support Programs.
47. As with Plaintiffs, Defendant does not instruct employees of its Home Support Programs to submit time spent preparing timesheets, reports, or time spent in training, for payment.
48. Even in those weeks where Defendant has paid certain employees in its Home Support Programs for some hours worked in excess of 40 hours, as with Plaintiffs, Defendant has paid only at the straight time rate, and no overtime premium.
49. This is a matter of policy.

50. Defendant has not paid the employees in its Home Support Programs for all hours worked in excess of 40 hours in many workweeks.
51. Defendant has not paid employees in its Home Support Programs the proper overtime rate of time-and-one-half the regular rate of pay.
52. In the past three years Defendant has employed 70 to 100 employees in its Home Support Programs.
53. Employees in Defendant's Home Support Programs over the past three years, have been subject to the same policies as Plaintiffs; paid on an hourly basis and/or day rate basis; paid only for those hours that Defendant instructed them to report, regardless of how many hours are actually worked; subject to a time-keeping system that does not provide for the recording of all time actually worked; and, not paid an overtime premium even when overtime hours are worked and submitted, but instead paid at a straight hourly rate.
54. The 70 to 100 employees of Defendant in its Home Support Programs over the past three years have regularly worked overtime; have not been paid proper overtime compensation, and have not been paid for all the hours they worked.
55. Defendant has knowingly and intentionally failed to pay the 70 to 100 employees in its Home Support Programs for their overtime hours either at the straight time rate or proper overtime rate, or non-overtime hours at the applicable straight time rate in overtime weeks.
56. Defendant's failure to pay minimum wages and overtime due to the 70 to 100 employees employed by Defendant in its Home Support Programs over the past three years, and its failure to maintain accurate records of time worked, has been in violation of the FLSA and PMWA.

57. Defendant has knowingly and intentionally violated the FLSA and PMWA, with respect to the failure to pay overtime, failure to pay for all hours worked, and failure to maintain accurate time records.
58. This is a hybrid putative collective/class action pursuant to 29 U.S.C. §216(b), and Pennsylvania Rule of Civil Procedure 1701 *et seq.*
59. The Class consists of all persons who (i) performed work in Defendant's Home Support Programs to provide the services of, "Home and Community," "Rehabilitation," "Companion Services," or "Respite" for Defendant's clients (ii) from the Uniontown location owned, operated, or controlled by Defendant (iii) at any time between April 10, 2014 and April 10, 2017 (the Class Period) (iv) on behalf of Defendant.
60. Members of the Class are so numerous that joinder of all members is impractical, as Plaintiffs estimate that the Class includes up to 70 or more persons.
61. Prosecuting this case as a collective/class action will promote judicial efficiency and will best protect the interests of the Class members because this case presents straightforward questions of law about whether Defendant was required to comply with the minimum wage, overtime, and record keeping provisions of the PMWA and FLSA.
62. There are no conflicts of interest among the Class members, nor do Plaintiffs have any conflicts of interest with any member of the Class.
63. Plaintiffs will fairly and adequately represent the interests of the Class. Plaintiffs have retained competent and experienced counsel, and Plaintiffs are motivated to represent the Class.
64. Counsel for Plaintiffs and the Class are experienced in the fields of employment law and class-action litigation and will fairly and competently represent the interests of the Class.

65. Plaintiffs' claims are typical of the Class, as Plaintiffs were "Home and Community," "Rehabilitation," "Companion Services," or "Respite" employees who worked from Defendant's Uniontown location during the Class Period, to include only those employees who should have, but did not, receive proper minimum wages or overtime compensation pursuant to the PMWA and FLSA.
66. There are questions of fact and law common to all members of the Class: All members of the Class worked as "Home and Community," "Rehabilitation," "Companion Services," or "Respite" employees for Defendant during the Class Period; all members of the Class worked from the Uniontown location; and client's homes, and all members of the Class were denied proper minimum wages and overtime compensation that should have been paid to them by Defendant.
67. Questions of fact and law common to the Class predominate over any questions affecting only individual members, as Defendant failed to pay the proper minimum wages and overtime compensation to all of its "Home and Community," "Rehabilitation," "Companion Services," or "Respite" employees in Pennsylvania during the Class Period, and the sole issue to be determined is whether Defendant's methods of payment of overtime complied with the requirements of the PMWA and FLSA.
68. A collective/class action provides a fair and efficient method for adjudication of this controversy.
69. Prosecuting this case as individual actions would create a risk of inconsistent or varying adjudications with respect to individual Class members that would establish incompatible standards of conduct for the party opposing the Class.
70. A collective/class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

71. Members of the Class have no interest in individually controlling the prosecution of these claims, as the issues presented in this case are best determined on a group-wide basis.
72. This is an appropriate forum in which to litigate these claims on behalf of the Class because all members of the Class worked in Western Pennsylvania during the Class Period.
73. This collective/class action presents straightforward questions of law and therefore will not be difficult to manage.
74. Plaintiffs and all other putative class members are “similarly situated” as that term is defined under the FLSA.

COUNT I: VIOLATION OF THE FLSA

Individual and Collective Action

75. Plaintiffs incorporate by reference the preceding paragraphs of this complaint.
76. Plaintiffs and all other similarly situated employees of Defendant’s Home Support Programs are employees of Defendant within the meaning of the FLSA.
77. Defendant is an employer within the meaning of the FLSA.
78. Plaintiff and all other similarly situated employees of Defendant’s Home Support Programs have been compensated on an hourly and/or day rate basis.
79. Plaintiffs and all other similarly situated employees of Defendant’s home Support Programs have regularly worked more than forty hours per week.

80. Defendant has not paid proper overtime compensation to Plaintiffs and all other similarly situated employees of its Home support Programs for work of more than forty hours in many workweeks.
81. Defendant has not paid any overtime compensation to Plaintiffs and all other similarly situated employees of its Home Support Programs at the proper overtime rate.
82. Defendant has failed to pay Plaintiffs and all similarly situated employees of its Home Support Programs for all their hours worked.
83. Defendant has failed to maintain accurate records of time worked for Plaintiffs and all other similarly situated employees of its Home Support Programs
84. Defendant's failure to pay overtime to Plaintiffs and all other similarly situated employees of its Home Support Programs has violated and continues to violate the FLSA.
85. Defendant's failure to pay Plaintiffs and all similarly situated employees of its Home Support Programs for all their hours worked has violated and continues to violate the FLSA.
86. For at least the past three years, Defendant's violations of the FLSA are knowing, willful, and in reckless disregard of the FLSA's overtime, minimum wage, and record keeping requirements.
87. Plaintiffs and all other similarly situated employees of Defendant's Home Support Programs are entitled to recover from Defendant the minimum wages and overtime pay improperly withheld by Defendant, plus interest, attorneys' fees, and costs.
88. Plaintiff and all other similarly situated employees of its Home Support Programs are also entitled to recover liquidated damages under 29 U.S.C. §§ 207(a) & 216(b).

COUNT II: VIOLATION OF THE PMWA

Individual and Class Action

89. Plaintiffs incorporate by reference the preceding paragraphs of this complaint.
90. Plaintiffs and all other similarly situated employees of Defendant's Home Support Programs are employees of Defendant within the meaning of the PMWA.
91. Defendant is an employer within the meaning of the PMWA.
92. Defendant's failure to pay overtime to Plaintiffs and similarly situated employees of its Home Support Programs violates the PMWA.
93. Defendant's failure to pay Plaintiffs and all similarly situated employees of its Home Support programs for all their hours worked violates the PMWA.
94. Defendant's failure to maintain accurate records of time worked for Plaintiffs and similarly situated employees of its Home Support program violates the PMWA.
95. Plaintiffs and similarly situated employees of Defendant's Home Support Programs are entitled to recover from Defendant the unpaid minimum wages and overtime pay improperly withheld by Defendant, for the past three years, plus interest, attorneys' fees, and costs pursuant to the PMWA.

PRAYER FOR RELIEF

96. WHEREFORE, Plaintiff and all others similarly situated respectfully request that this Court:
 - A. Order Defendant to pay the unpaid minimum wages and overtime compensation owed to Plaintiffs and all other similarly situated employees of Defendant's Home Support Programs;
 - B. Order Defendant to pay liquidated damages to Plaintiffs and all other similarly

situated employees of Defendant's Home Support Programs;

- C. Order Defendant to pay pre- and post-judgment interest as well as the litigation costs and reasonable attorneys' fees incurred by Plaintiffs and all other similarly situated employees of Defendant's Home Support Programs; and
- D. Grant such further relief as the Court deems necessary and proper.

Respectfully submitted,

/s/ John R. Linkosky, Esquire

John R. Linkosky, Esq.

JOHN LINKOSKY & ASSOCIATES

715 Washington Avenue

Carnegie, PA 15106

linklaw@comcast.net

Tel.: (412) 278-1280

Fax: (412) 278-1282

/s/ Joseph E. Fieschko, Jr., Esquire

Joseph E. Fieschko, Jr., Esquire

JOSEPH E. FIESCHKO, JR. & ASSOC.

2230 Koppers Building

Pittsburgh, PA 15219

412-281-2204

FAX 412-338-9169

Counsel for Plaintiffs

and all others similarly situated

Dated: April 13, 2017

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

JESSE LYNN and BELINDA DARNELL, on behalf of themselves and all similarly situated employees,

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

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

John Linkosky & Assoc. & Fieschko & Associates
715 Washington Ave & 2200 Koopers Building
Carnegie, PA 15106 / 412-278-1280 Pittsburgh, PA 15219

DEFENDANTS

ARC OF FAYETTE COUNTY

County of Residence of First Listed Defendant FAYETTE (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

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 (FLSA) 29 U.S.C. Section 201 et seq.

Brief description of cause: Action to collect unpaid minimum wage and overtime compensation pursuant to the FLSA and PMWA

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 04/13/2017 SIGNATURE OF ATTORNEY OF RECORD /s/ John R. Linkosky, Esquire

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

JS 44AREVISED 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 (Place **x** in only 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/ John R. Linkosky, Esquire

Date: April 13, 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 six 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. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

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

UNITED STATES DISTRICT COURT

for the

Western District of Pennsylvania

JESSE LYNN and BELINDA DARNELL,
on behalf of themselves and all
similarly situated employees,

Plaintiff(s)

v.

ARC OF FAYETTE COUNTY

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) ARC of Fayette County
80 Old New Salem Road
Uniontown, PA 15401

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: John R. Linkosky, Esquire
John Linkosky & Assoc.
715 Washington Ave
Carnegie, PA 15106

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: [Lawsuit Claims Arc of Fayette County Broke State, Federal Labor Laws](#)
