

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
CHATTANOOGA DIVISION**

BARBARA THAXTON and **ANGELA D. MAYES**, Individually, and on behalf of themselves and all other similarly situated current and former employees,

Plaintiffs,

NO. _____

v.

FLSA Opt-In Collective Action

BOJANGLES' RESTAURANTS, INC.,
a Delaware Corporation, and
BOJANGLES', INC.,
a Delaware Corporation,

JURY DEMANDED

Defendants

COLLECTIVE ACTION COMPLAINT

Plaintiffs Barbara Thaxton and Angela D. Mayes, individually, and on behalf of themselves and all others similarly situated, hereby file their Collective Action Complaint against Defendants Bojangles' Restaurants, Inc., and Bojangles', Inc. and allege as follows:

I.

INTRODUCTION

1. Plaintiffs Barbara Thaxton and Angela D. Mayes were employees of and performed job duties for Bojangles' Restaurants, Inc. and Bojangles', Inc. ("Bojangles"), at all times relevant to this Collective Action Complaint.
2. This lawsuit is brought against Defendants as a collective action under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, *et seq.*, to recover unpaid overtime

compensation for Plaintiffs and other similarly situated current and former employees who are members of a class as defined herein.

3. At all times material to this Collective Action Complaint, Plaintiffs and the class performed non-exempt labor duties on behalf of Defendants.
4. Based on the information preliminarily available, and subject to discovery in this cause, Defendants did not compensate Plaintiffs, and those similarly situated employees of Defendants, for all overtime hours worked in excess of forty (40) per week during all times relevant to this Collective Action Complaint.

II.

JURISDICTION AND VENUE

5. The FLSA authorizes court actions by private parties to recover damages for violations of the FLSA's wage and hour provisions. Jurisdiction over Plaintiffs' FLSA claims are based on 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.
6. Venue in this district is proper pursuant to 28 U.S.C. § 1391(b) and (c) because Plaintiffs performed job duties at Defendants' Bojangles restaurants in this district, Defendants regularly conducted business in this district and Defendants' wage and hour plans, policies and practices have been administered in this district, during all times material to this action.

III.

CLASS DESCRIPTION

7. Plaintiffs bring this action on behalf of the following similarly situated persons:

All current and former employees who were misclassified as exempt
Assistant Unit Directors of Defendants' Company-Operated Bojangles

restaurants located in the United States who work (or have worked) at such Company-Operated Bojangles restaurants at any time during the applicable limitation's period covered by this Collective Action Complaint (*i.e.* two years for FLSA violations, three years for willful FLSA violations, up to and including the date of final judgment in this matter, and who are the Named Plaintiffs and those who elect to opt-in to this action pursuant to the FLSA, 29 U.S.C. § 216(b). (Collectively, “the class”).

IV.

PARTIES

8. Plaintiff Barbara Thaxton resided in Hamilton County, Tennessee and performed job duties as an Assistant Unit Director for Defendants at one or more of Defendants’ Bojangles restaurants in Hamilton County, Tennessee during all times material herein. (Plaintiff Thaxton's Consent to Join this collective action is attached hereto as Exhibit A.)
9. Plaintiff Angela D. Mayes resided in Hamilton County, Tennessee and performed job duties as an Assistant Unit Director for Defendants at one or more of their Bojangles restaurants in Hamilton County, Tennessee during all times material herein. (Plaintiff Mayes's Consent to Join this collective action is attached hereto as Exhibit B.)
10. Defendant Bojangles’ Restaurants, Inc., is a Delaware Corporation with its principal executive office located at 9432 Southern Pine Blvd., Charlotte, North Carolina 28273-5553. Bojangles’ Restaurants, Inc., is a subsidiary of Defendant Bojangles’, Inc. Bojangles’ Restaurants, Inc., can be served process through its registered agent: CT

Corporation System, 160 Mine Lake Court, Suite 200, Raleigh, North Carolina 27615-6417.

11. Defendant Bojangles', Inc., is a Delaware Corporation with its principal executive office located at 9432 Southern Pine Blvd., Charlotte, North Carolina 28273-5553. Bojangles', Inc., is the parent of Defendant Bojangles' Restaurants, Inc., and other subsidiaries, BJ Restaurant Development, LLC, BJ Georgia, LLC, and Bojangles' International, LLC. Bojangles', Inc., can be served process through its registered agent: The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.
12. Defendants constitute an integrated enterprise because Defendants' related activities (i.e. jointly owning and operating Bojangles' restaurants) performed (either through unified operation or common control) by any person or persons [are] for a common business purpose as that term is defined in the FLSA, 29 U.S.C. § 203(r).

V.

ALLEGATIONS

13. Defendants own, operate and franchise Bojangles restaurants with their core menu centered on "chicken 'n biscuits." As of December 2015, Defendants operated company owned Bojangles restaurants in several states across the United States, including Tennessee, Alabama, Maryland, Georgia, South Carolina and North Carolina.
14. The primary function of Defendants' Bojangles restaurants is to prepare and sell food and beverage items to customers.

15. Bojangles is and/or has been the “employer” of the Plaintiffs and those similarly situated within the meaning of 29 U.S.C. § 203(d), during all times relevant to this Collective Action Complaint.
16. Plaintiffs and all other similarly situated persons are current or former employees (classified as Assistant Unit Directors) of Bojangles.
17. Bojangles employed Plaintiffs and those similarly situated and was responsible for establishing and administering pay policies and practices, including pay classifications and overtime pay rates, during all times relevant to this Collective Action Complaint.
18. Bojangles has had a centralized plan, policy and practice (scheme) of establishing and administering pay practices for its employees classified as Assistant Unit Directors.
19. At all times material to this action, Plaintiffs and those similarly situated are or have been “employees” of Bojangles as defined by Section 203(e)(1) of the FLSA and, worked for Bojangles within the territory of the United States within three (3) years preceding the filing of this lawsuit.
20. At all times material to this action, Defendants have been an enterprise engaged in commerce or in the production of goods for commerce as defined by Section 203(s)(1) of the FLSA, with annual revenue in excess of \$500,000.00.
21. At all times material to this action, Defendants have been subject to the pay requirements of the FLSA because they are an enterprise in interstate commerce and their employees are engaged in interstate commerce.
22. Defendants’ Bojangles’ restaurants employ individuals classified as Assistant Unit Directors whose primary duties are non-managerial in nature and whose principal duties are to prepare and serve food items to Bojangles’ customers.

23. As Assistant Unit Directors, the primary duties of Plaintiffs and similarly situated putative class members were cleaning, taking orders, servicing customers, and preparing, cooking, and packaging food. Plaintiff and putative class members spent a vast majority of their work-time performing such routine duties.
24. Bojangles misclassified Plaintiffs as salary exempt employees and based their salary on a forty (40) hour work week.
25. However, Bojangles typically scheduled and required Plaintiffs and the class to work a minimum of fifty (50) hours per week during the statutory period. Plaintiffs regularly and routinely worked far in excess fifty (50) hours per week during such times.
26. Defendants failed to compensate Plaintiffs and the class at a rate of one and one half time their regular rate of pay for all time worked in excess of forty (40) hours in individual work weeks.
27. Bojangles employs a uniform electronic time keeping system for tracking and reporting employee hours worked at each of its restaurants.
28. Plaintiffs and other similarly situated employees of Defendants, classified as Assistant Unit Directors, who have not been paid overtime compensation for all hours worked in excess of forty (40) hours per week, during the relevant statutory limitations' period, are entitled, and hereby seek, to receive all such overtime compensation due to them from Defendants.
29. The net effect of Defendants' plan, policy and practice of not paying Plaintiffs and other similarly situated employees classified as Assistant Unit Directors overtime compensation for all hours worked in excess of forty (40) hours per week, during the relevant statutory limitations' period, was a scheme to save payroll costs and payroll taxes

for which Defendants have enjoyed ill gained profits at the expense of Plaintiffs and other members of the class.

30. Bojangles treated Plaintiffs as exempt employees when it was in Bojangles' financial interest to do so by failing to pay Plaintiffs time-and-one-half for hours worked over forty (40) within weekly pay periods during the relevant statutory limitations' period.
31. Bojangles treated Plaintiffs as non-exempt employees when it was in Bojangles' financial interests to do so by monitoring their hours worked, and reducing Plaintiffs' pay based on the quantity of work performed, or in other words, reducing Plaintiffs' pay on an hourly basis for every hour worked under forty (40) per week.
32. For example, Plaintiffs' and other class members' compensation was reduced or "docked" for partial-day absences, lack of work and quantity of work, in violation of 29 U.S.C. § 201, et seq., and 29 C.F.R. §§ 541.602(a), (b)1, 541.603.
33. Bojangles is unable to bear its burden of showing that Plaintiffs and the class fall within any of the FLSA overtime exemptions, including but not limited to those announced in 29 C.F.R. §§ 541.300, 541.301, 541.302, 541.303, or 541.304.
34. Although at this stage Plaintiffs are unable to state the exact amount owed to them and other members of the class, they believe such information will become available during the course of discovery. However, when an employer fails to keep complete and accurate time records, employees may establish the hours worked solely by their testimony and the burden of proof of overcoming such testimony shifts to the employer.

VI.

COLLECTIVE ACTION ALLEGATIONS

35. The preceding paragraphs are incorporated by reference as if the same were fully set forth herein.

36. Plaintiffs bring this collective action on behalf of themselves and all other persons similarly situated pursuant to the FLSA, 29 U.S.C. §§ 206, 207, and 216(b), specifically, as follows:

All Assistant Unit Directors employed by Defendants within the three years preceding the filing of this action who were misclassified as exempt employees even though they primarily performed non-exempt duties.

Upon information and belief, Plaintiffs believe that the definition of the class could be further refined following discovery of Defendants' books and records.

37. The claims under the FLSA may be pursued by those who opt-in to this case under 29 U.S.C. § 216(b).

38. The members of the class are so numerous that joinder of all other members of the class is impracticable. While the exact number of the other members of the class is unknown to Plaintiffs at this time and, can only be ascertained through applicable discovery, Plaintiffs believe there are more than 400 individuals in the putative class.

39. The claims of Plaintiffs are typical of the claims of the class. Plaintiffs and the other members of the class work or have worked for Bojangles at its company-operated Bojangles restaurants and were subject to the same operational, compensation and timekeeping plans, policies and practices, including the failure of Bojangles to pay Plaintiffs and other employees classified as Assistant Unit Directors overtime

compensation under the FLSA for all hours worked in excess of forty (40) hours per week during the relevant statutory limitations' period.

40. Common questions of law and fact exist as to the class which predominate over any questions only affecting other members of the class individually and include, but are not limited to, the following:

- Whether Plaintiffs and other members of the class were misclassified as exempt from the FLSA;
- Whether Plaintiffs and other members of the class were expected and/or required to work hours without compensation;
- Whether Defendants suffered and permitted Plaintiffs and other members of the class to work hours without compensation;
- Whether Defendants failed to pay Plaintiffs and other members of the class all applicable straight time wages for all hours worked;
- Whether Defendants failed to pay Plaintiffs and other members of the class all overtime compensation due them for all hours worked in excess of forty (40) hours per week;
- The correct statutes of limitations for Plaintiffs' claims and the claims of the other members of the class;
- Whether Plaintiffs and other members of the class are entitled to damages, including but not limited to liquidated damages, and the measure of the damages; and,
- Whether Defendants are liable for interest, attorneys' interest, fees, and costs.

41. Plaintiffs will fairly and adequately protect the interests of the class as their interests are aligned with those of the other members of the class. Plaintiffs have no interests adverse to the class and, Plaintiffs have retained competent counsel who are experienced in collective action litigation.

42. The collective action mechanism is superior to the other available methods for a fair and efficient adjudication of the controversy. The expenses, costs, and burden of litigation

suffered by individual other members of the class in a collective action are relatively small in comparison to the expenses, costs, and burden of litigation of individual actions, making it virtually impossible for other members of the class to individually seek address for the wrongs done to them.

43. Plaintiffs and other members of the class have suffered and will continue to suffer irreparable damage from the unlawful policies, practices, and procedures implemented and administered by Bojangles.

COUNT I

VIOLATION OF THE FLSA IN CONNECTION WITH OVERTIME COMPENSATION

44. Plaintiff, on behalf of herself and the class, repeats and re-alleges Paragraphs 1 through 43 above, as if they were fully set forth herein.
45. At all relevant times, Bojangles has been and continues to be an employer engaged in interstate commerce within the meaning of the FLSA, 29 U.S.C. §§ 206(a) and 207(a). Plaintiffs and class members also have worked within the stream of interstate commerce during all relevant times to this Collective Action Complaint.
46. At all relevant times, Bojangles employed (and/or continues to employ) Plaintiffs and each of the other members of the class within the meaning of the FLSA.
47. At all times relevant, Bojangles had a uniform plan, policy and practice of willfully refusing to pay the federal applicable overtime compensation to Plaintiffs and other members of the class for all hours worked in excess of forty (40) hours per week.

48. At all times relevant, Bojangles had actual and/or constructive knowledge of willfully refusing to pay the federal applicable overtime compensation to Plaintiffs and other members of the class for all hours worked in excess of forty (40) hours per week.
49. At all times relevant, Bojangles did not have a good faith basis for its failure to pay the federal applicable overtime compensation to Plaintiffs and other members of the class for all hours worked in excess of forty (40) hours per week.
50. As a result of Bojangles' willful failure to pay Plaintiffs and other members of the class the applicable federal applicable overtime compensation for all hours worked over forty (40) per week during the relevant statutory limitations' period, it has violated the FLSA, 29 U.S.C. §§ 201, *et seq.*
51. Bojangles conduct constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(a).
52. Due to Bojangles willful FLSA violations and, and its lack of good faith, in its failure to pay Plaintiffs and the other members of the class the federal applicable overtime compensation for all hours worked in excess of forty (40) hours per week during the relevant statutory limitations' period, they are entitled and, hereby seek, to recover from Bojangles compensation for unpaid overtime wages, an additional equal amount as liquidated damages, as well as interest, reasonable attorneys' fees, costs, and disbursements relating to this action for the three-year statutory period under the FLSA, 29 U.S.C. § 216(b).

PRAYER FOR RELIEF

Wherefore, Plaintiffs, individually and/or on behalf of themselves and all other similarly situated members of the class demand judgment, jointly and severally, against Defendants,

Bojangles' Restaurants, Inc., and Bojangles', Inc., as well as to request this Court to grant the following relief against Defendants:

- A. An Order designating this action as an opt-in collective action on behalf of the class for claims under the FLSA and promptly issuing notice pursuant to 29 U.S.C. § 216 for the claims of the class, apprising class members of the pendency of this action and permitting other members of the class to assert timely FLSA claims resulting from the same policy or practice of misclassification by filing individual Consents under 29 U.S.C. § 216(b);
- B. An award of compensation for unpaid overtime wages to Plaintiffs and other members of the class;
- C. An award of liquidated damages to Plaintiffs and other members of the class;
- D. An award of prejudgment and post-judgment interest at the rate established by the Secretary of the Treasury, pursuant to 29 U.S.C. § 6221, from the date they became due until the date they are paid.
- E. An award of costs, expenses, and disbursements relating to this action together with reasonable attorneys' fees and expert fees to Plaintiffs and other members of the class;
- F. A ruling that the three-year statutory period for willful violations under the FLSA shall apply in this action;
- G. All applicable statutory and common law damages;
- H. A Declaration that Plaintiffs and other members of the class were misclassified as exempt and entitled to unpaid overtime damages and other common law or statutory damages to be proven at trial;

- I. A Declaration that Defendants have willfully violated the FLSA;
- J. An Order appointing Plaintiffs and Plaintiff's counsel to represent those individuals opting in to the collective action; and
- K. Such other general and specific relief as this Court deems just and proper.

JURY TRIAL DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs demand a **trial by jury** on all issues so triable.

Dated: September 26, 2017

Respectfully Submitted,

/s/Gordon E. Jackson

Gordon E. Jackson (TN BPR #08323)

James L. Holt, Jr. (TN BPR #12123)

J. Russ Bryant (TN BPR #33830)

Paula R. Jackson (TN BPR #20149)

JACKSON, SHIELDS, YEISER & HOLT

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*Attorneys for Named Plaintiff, on behalf of
herself and all other similarly situated current
and former employees*

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BARBARA THAXTON, and
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JURY DEMANDED

BOJANGLES' RESTAURANTS, INC.,
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BOJANGLES', INC.,
a Delaware Corporation,

Defendants.

CONSENT TO JOIN

1. I have been employed by Bojangles' Restaurants, Inc., and Bojangles', Inc., ("Defendants") and, classified as an Assistant Unit Director at one Defendants' corporate owned and operated Bojangles' restaurants within the past three (3) years.
2. I hereby consent to join this or any subsequent action against the Defendants as a Named Representative Party-Plaintiff to assert claims for violations of the FLSA 29 U.S.C. § 201, *et seq.*, and unpaid overtime wages as specified in the Collective Action Complaint.
3. I understand this lawsuit is brought under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 216(b), *et seq.* I hereby consent, agree, and opt-in to become a Party-Plaintiff in this action.
3. I agree to be represented by Jackson, Shields, Yeiser & Holt and Attorneys Gordon E. Jackson, James L. Holt, Jr., J. Russ Bryant, and Paula R. Jackson, and Chris Strianese of Strianese Huckert, LLP, counsel for the Named Plaintiffs, as well as any other attorneys with whom they may associate.
4. If this case does not proceed collectively, I also consent to join any subsequent action to assert claims against these Defendants and any other related entities for unpaid wages.

Barbara Thaxton

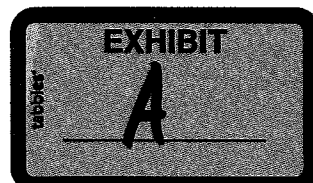
9-26-2017

Barbara Thaxton

Signature

Date

Full Legal Name



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4. If this case does not proceed collectively, I also consent to join any subsequent action to assert claims against these Defendants and any other related entities for unpaid wages.

Angela D. Mayes

Signature

9-26-17

Date

Angela Desiree Mayes

Full Legal Name



CIVIL COVER SHEET

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

<p>I. (a) PLAINTIFFS BARBARA THAXTON, et al.,</p> <p>(b) County of Residence of First Listed Plaintiff <u>Hamilton County, TN</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) JACKSON SHIELDS YEISER & HOLT, 262 German Oak Drive, Memphis, Tennessee 38018, (901) 754-8001</p>	<p>DEFENDANTS BOJANGLES' RESTAURANTS, INC., et al.,</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known) _____</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width: 100%;"> <tr> <td style="width: 33%;">Citizen of This State</td> <td style="width: 33%;">PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1</td> <td style="width: 33%;">Incorporated or Principal Place of Business In This State</td> <td style="width: 33%;">PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td>PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td>PTF <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td>PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td>PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4	Citizen of Another State	PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	PTF <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6										

[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	<p>PERSONAL INJURY</p> <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	<p>PERSONAL INJURY</p> <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 <p>PERSONAL PROPERTY</p> <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	<p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
<p>REAL PROPERTY</p> <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	<p>CIVIL RIGHTS</p> <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	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <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 <p>Other:</p> <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	<p>LABOR</p> <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	<p>SOCIAL SECURITY</p> <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))
				<p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

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:
Collective action under 216(b) of the FLSA for the payment of wages.

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: 09/26/2017 SIGNATURE OF ATTORNEY OF RECORD: /s/Gordon E. Jackson

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.

UNITED STATES DISTRICT COURT

for the

Eastern District of Tennessee

BARBARA THAXTON, et al.,

Plaintiff(s)

v.

BOJANGLES' RESTUARANTS, INC., et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) BOJANGLES' RESTAURANTS, INC.
Reg. Agent: CT Corporation System
800 S Gay Street, Suite 2021
Knoxville, Tennessee 37929-9710

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Gordon E. Jackson
J. Russ Bryant
JACKSON SHIELDS YEISER & HOLT
262 German Oak Drive
Memphis, Tennessee 38018
(901) 754-8001

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: 09/26/2017

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:

UNITED STATES DISTRICT COURT
for the
Eastern District of Tennessee

BARBARA THAXTON, et al.,

Plaintiff(s)

v.

BOJANGLES' RESTUARANTS, INC., et al.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) BOJANGLES', INC.
Reg. Agent: The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, Delaware 19801

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:

Gordon E. Jackson
J. Russ Bryant
JACKSON SHIELDS YEISER & HOLT
262 German Oak Drive
Memphis, Tennessee 38018
(901) 754-8001

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.

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Date: 09/26/2017

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_____ 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
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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: [Bojangles' Restaurants Facing Unpaid Wage Claims](#)
