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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

THOM JENSEN, individually, and on behalf of  
all others similarly situated,

Plaintiff,

v.

FISHER BROADCASTING – PORTLAND  
TV, LLC, now known as SINCLAIR  
TELEVISION OF PORTLAND, LLC, and  
FISHER BROADCASTING COMPANY, now  
known as SINCLAIR TELEVISION MEDIA,  
INC., and FISHER COMMUNICATIONS,  
INC., now known as SINCLAIR  
BROADCAST GROUP, INC.,

Defendants.

Case 3:14-cv-137 \_\_\_\_\_

COMPLAINT

(FLSA Representative Action; Class  
Action Wage Claim; ADA; ORS  
659A.112; ORS 659A.109; FLSA  
Retaliation; Wrongful Discharge )

**DEMAND FOR JURY TRIAL**

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**1. Preliminary Statement.**

1.1 This is a representative action by a former employee against his employer to  
recover unpaid overtime wages. Plaintiff brings this representative action to obtain the

overtime wages due him and his co-workers under the federal Fair Labor Standards Act, 29 U.S.C. 201 *et. seq.*, (“FSLA”) and liquidated damages for failure to pay overtime wages under the FSLA.

1.2 This is a class action seeking penalty wages for violation of Oregon statutes (including ORS 653.055, 653.261, and 654.140) and applicable administrative regulations (including OAR 839-20-030) requiring payment of wages and overtime premiums for work done in excess of 40 hours per week. Fisher willfully failed to pay plaintiffs any wages due them for work performed over 40 hours per week.

1.3 Plaintiff also brings this action for monetary relief, damages, costs, punitive damages and attorney fees for himself to redress injuries done to him by Defendants, or officers, employees or agents of said Defendants in contravention of his federally protected rights under Title I of the Americans with Disabilities Act of 1990, as amended (ADA), the FLSA, and his state protected rights in violation of Oregon Revised Statutes 659A.112, 659A.109 and common law.

## **2. Jurisdiction and Venue.**

2.1 Jurisdiction for federal overtime wage claims exists under the FLSA, 29 U.S.C. 216(b). The Court has jurisdiction over Plaintiff’s individual federal claims pursuant to 28 U.S.C. §§ 1331 and 1343, and 42 U.S.C. §2000e-5(f)(3) as incorporated into the ADA by 42 U.S.C. §12117(a).

2.2 The court has supplemental jurisdiction under 28 U.S.C. 1367 over the Oregon state claims because these claims arise out of the same common nucleus of facts which support the federal claims.

2.3 Plaintiff filed timely claims with the Equal Employment Opportunity Commission (“EEOC”) Oregon’s Bureau of Labor and Industries (“BOLI”) and raising Plaintiff’s individual issues alleged herein.

### **3. Parties.**

3.1 Fisher Broadcasting – Portland TV, LLC was a foreign limited liability company with a license to conduct business in the State of Oregon. Fisher Broadcasting Company was a Washington corporation licensed to conduct business in the state of Oregon. Upon information and belief, Fisher Broadcasting Company was the sole Member of Fisher Broadcasting – Portland TV, LLC. Upon information and belief, Fisher Broadcasting Company was a wholly owned subsidiary of Fisher Communications, Inc. Both Fisher Broadcasting – Portland TV, LLC and Fisher Broadcasting Company were owned and operated by Fisher Communications, Inc. which substantially controlled their operations including but not limited to the decision whether to pay overtime to employees and the decisions regarding Plaintiff’s termination.

3.2 In or about April 11, 2013 it was announced Sinclair Broadcast Group, Inc. was acquiring Fisher Communications, Inc. which owned 20 television stations including KATU where Plaintiff worked. After the sale was completed in or about August of 2013 Fisher Broadcasting – Portland TV, LLC became Sinclair Television of Portland, LLC. Sinclair Television of Portland LLC is a Delaware limited liability company with a license to conduct business in the State of Oregon. Sinclair Television Media, Inc. is a Washington corporation licensed to conduct business in the state of Oregon. Upon information and belief, Sinclair Television Media, Inc. the sole Member of Sinclair Television of Portland LLC. Upon information and belief, Sinclair Television Media, Inc. is a wholly owned subsidiary of

Sinclair Broadcast Group, Inc. Both Sinclair Television of Portland, LLC and Sinclair Broadcast Group, Inc. are owned and operated by Sinclair Broadcast Group, Inc.

3.3 All named Defendants will hereinafter be referred to as “Defendants” or “Fisher” unless specifically named. Plaintiff began work for Fisher on or about October 2006 as a reporter and worked continuously until his employment was terminated on or about December 18, 2012. He began working at \$75,000 per year and his rate of pay at termination was \$88,303.00 (\$42.45 per hour at 40 hours per week). During his employment, he worked overtime nearly every week. Plaintiff usually worked between 5 and 10 overtime hours per week (45-50 total work hours per week).

3.4 Plaintiff at all material times was an employee of Fisher and an Oregon resident. He is the named plaintiff for the representative action under the FLSA and class representative for the class action claim under the Oregon overtime wage statutes and regulations.

#### **4. FLSA Representative Action.**

4.1 Plaintiff brings this action as a representative suit under FLSA 29 U.S.C. 216(b) to obtain overtime pay and liquidated damages on behalf of all employees of Fisher who have worked forty hours or more in any given work week.

#### **5. Class Action.**

5.1 Plaintiff seeks certification under Federal Rule of Civil Procedure, Rule 23(b)(3) of their right to bring this class action composed of all past, present and future employees of Fisher as of the date this matter is determined who have qualified for, but not received, payment of wages for hours worked beyond 40 hours per week. Plaintiff seeks

declaratory and injunctive relief and monetary damages pursuant to Oregon wage law for himself and members of the class he represents.

5.2 The number of persons in the class is known only to Fisher. However, on information currently available to plaintiffs, it is believed that as many as 30 or more current and former employees are in the potential class. In any event, the numbers are large enough to make joinder of all members impractical.

5.3 There are questions of law and fact common to the members of the class which predominate over questions affecting individual members. All class members are, were, or will be employees of Fisher subject to the same company rules and regulations, whose paychecks are computed utilizing the same or similar bookkeeping system and personnel. The only individualized difference known to plaintiff in each class member's wage claim is the computation of the actual hours worked by each specific employee.

5.4 The wage claim of the named plaintiff is typical of the class.

5.5 The named plaintiff will fairly and adequately protect the interests of the other members of the class.

5.6 Counsel for plaintiff is experienced in representing persons in suits of this nature and will adequately represent the interests of class members.

## **6. Facts.**

6.1 Fisher Communications, Inc., now merged with Sinclair Broadcast Group, Inc., owned and operated approximately 20 television stations and 4 radio stations in Oregon, Washington, Idaho and California, including KATU in Portland where Plaintiff was employed as a news reporter.

6.2 On a regular basis, the total number of hours worked by plaintiff, and others similarly situated in a work week exceeded 40 hours.

6.3 Fisher refused to pay any wages for hours worked in excess of 40 per week.

6.4 Fisher wrongfully classified plaintiff as an exempt worker in order to deprive plaintiff, and others similarly situated, of wages and overtime premiums to which they were entitled under federal and/or state law.

6.5 On information and belief plaintiff and others similarly situated worked an average of 5-15 hours overtime per week in order to maintain employment.

6.6 On information and belief plaintiff and others similarly situated are entitled to overtime pay in the range of \$235.00 to \$920.00 per week for each plaintiff.

6.7 To date, Fisher has willfully failed to pay the wages due to all employees under federal and state law.

6.8 Plaintiff has had to retain the services of an attorney to pursue this claim against Fisher. Plaintiff is entitled to recover reasonable attorney fees pursuant to 29 U.S.C. 216(b) and ORS 653.055; 652.200.

6.9 At all relevant times, Plaintiff was a qualified individual with a disability, to wit: Plaintiff suffers from PTSD.

6.10 At all material times herein, Plaintiff was supervised by Fisher's employees or agents and Plaintiff relied on the actual or apparent authority of Fisher's employees, supervisors and management to act for Fisher.

6.11 Plaintiff informed Fisher of his disability verbally beginning in October 2011 and in writing February 2012. Accommodations requested by Plaintiff included moving his desk and moving to the night shift.

6.12 Other than providing time for Plaintiff to see his doctor, Fisher did not provide any accommodation nor did it engage in an interactive process with Plaintiff to determine reasonable accommodations.

6.13 Fisher illegally disciplined Plaintiff for actions and behaviors which are a symptom of his disability and which do not reach the threshold of outrageousness. Cursing, yelling, and belittling others was commonplace in the newsroom by management. Fisher's wrongful conduct exacerbated Plaintiff's PTSD.

6.14 Beginning in July of 2012, Plaintiff complained to management and informed them that reporters are entitled to overtime wages. He provided documentation of the Oregon BOLI exemptions and the U.S. DOL exemptions and highlighted the areas where reporters fail to meet the requirements to exempt them from overtime, lunch breaks and bathroom breaks. Local management continually brings up his concerns about overtime over the next several months. Fisher management insists to Plaintiff the reporters are exempt without explanation.

## **7. Claims for Relief.**

### **First Claim for Relief**

#### **(FLSA)**

7.1 The FLSA, 29 U.S.C. §201, *et. seq* at §207 requires Fisher to pay plaintiffs time and a half for time worked in excess of forty hours per week. Fisher owes plaintiffs unpaid overtime wages and an amount equal to the unpaid wages as liquidated damages.

7.2 Fisher has repeatedly and consistently violated its responsibility to pay overtime wages under federal law; and will continue to do so and cause irreparable harm unless enjoined and restrained.

**Second Claim for Relief**

**(Oregon wage and hour)**

7.3 Oregon law requires each employer to pay employees all wages due within a specified period of time or be liable for penalty wages set by statute. Fisher has not paid wages or overtime wages for work suffered or permitted in excess of 40 hours per week within the specified time period required by statute, and plaintiff and those similarly situated are entitled to penalty damages equal to thirty days wages.

7.4 Fisher has repeatedly and consistently violated its responsibility to pay wages and overtime wages under state law; and will continue to do so and cause irreparable harm unless enjoined and restrained.

**Third Claim For Relief**

**(ADA – Disability/Perceived Disability Discrimination)**

7.5 Throughout his employment, Plaintiff had a disability covered by the ADA. As set forth above, Fisher knew about Plaintiff's disability as of October, 2011.

7.6 Fisher perceived Plaintiff to be disabled and/or Plaintiff had a record of such disability.

7.7 Fisher's treatment and termination of Plaintiff was substantially motivated by his disability/perceived disability and constitutes unlawful disability discrimination in violation of the ADA.

7.8 As a result of Fisher's unlawful conduct, Plaintiff has incurred and continues to incur lost wages and benefits in an amount to be proven at trial. Plaintiff will continue to have lost income and benefits into the future.



7.9 As a direct and proximate result of Fisher's conduct, Plaintiff has suffered and will continue to suffer mental stress, humiliation, inconvenience and loss of enjoyment of life all to his non-pecuniary loss in an amount to be determined at trial.

7.10 Plaintiff is entitled to recover his costs and attorney fees pursuant to 42 U.S.C. §1988 and 42 U.S.C. §2000e-5(k) as incorporated into the ADA by 42 U.S.C. §12117(a).

7.11 Fisher's conduct was willful, malicious and/or done with reckless indifference to Plaintiff's federally protected rights. Fisher should be assessed punitive damages pursuant to 42 USC §1981(b)(1) in an amount to be determined at trial.

#### **Fourth Claim For Relief**

##### **(ORS 659A.112 – Disability/Perceived Disability Discrimination)**

7.12 During his employment, Plaintiff had a disability as defined by ORS 659A.104. Fisher knew about Plaintiff's disability as of October 2011.

7.13 Alternatively, Fisher perceived Plaintiff to be disabled and/or Plaintiff had a record of such disability.

7.14 Fisher's treatment and termination of Plaintiff was substantially motivated by his disability/perceived disability and constitutes unlawful disability discrimination in violation of ORS 659A.112.

7.15 As a result of Fisher's unlawful conduct, Plaintiff has incurred and continues to incur lost wages and benefits in an amount to be proven at trial. Plaintiff will continue to have lost income and benefits into the future.

7.16 As a direct and proximate result of Fisher's conduct, Plaintiff has suffered and will continue to suffer mental stress, humiliation, inconvenience and loss of enjoyment of life all to his non-pecuniary loss in an amount to be determined at trial.

7.17 Plaintiff is entitled to recover his costs and attorney fees pursuant to ORS 659A.885 and ORS 20.107.

7.18 Fisher's conduct was wanton and willful. Fisher should therefore be assessed punitive damages in an amount to be determined at trial.

**Fifth Claim For Relief**

**(ADA – Disability/Perceived Disability Retaliation)**

7.19 Fisher engaged in an unlawful employment practice in violation of the ADA.

7.20 Plaintiff realleges sections 1, 2, 3, 6, and 7.

**Sixth Claim For Relief**

**(ORS 659A.109 – Disability/Perceived Disability Retaliation)**

7.21 Plaintiff realleges sections 1, 2, 3, 6, and 7.

7.22 Fisher engaged in an unlawful employment practice in violation of ORS 659A.109.

**Seventh Claim For Relief**

**(ADA – Failure to Accommodate)**

7.23 Plaintiff realleges sections 1, 2, 3, 6, and 7.

7.24 Fisher engaged in an unlawful employment practice by failing to make reasonable accommodation for Plaintiff's known physical limitations in violation of the ADA.

**Eighth Claim For Relief**

**(ORS 659A.112 and 659A.118 – Failure to Accommodate)**

7.25 Plaintiff realleges sections 1, 2, 3, 6, and 7.

7.26 Fisher engaged in an unlawful employment practice by failing to make reasonable accommodation for Plaintiff's known physical limitations.

**Ninth Claim For Relief**

**(Wrongful Discharge)**

7.27 Plaintiff realleges sections 1, 2, 3, 6, and 7.

7.28 At all materials times, the public policy of Oregon prohibited an employer from retaliating against an employee for reporting information the employee believed was evidence of a violation of a state or federal law, rule, or regulation.

7.29 This public policy is embodied in the common law, statutes, and regulations of the State of Oregon and the United States including, but not limited to Oregon wage and hour laws and the FLSA.

7.30 Fisher, acting through its agents and/or employees, violated the above public policies by retaliating against Plaintiff for opposing and/or making good faith complaint about unlawful conduct.

7.31 Fisher's discharge of Plaintiff was taken in retaliation for Plaintiff's pursuit and exercise of Plaintiff's rights, which are of important public interest.

**Tenth Claim For Relief**

**(FLSA Retaliation)**

7.32 Plaintiff realleges Sections 1, 2, 3, 6, and 7.

7.33 Fisher is an employer within the meaning of 29 U.S.C. §203. Plaintiff is an employee within the meaning of 29 U.S.C. §203. Plaintiff engaged in protected activity when he complained about Fisher's violations of the FLSA including but limited to as alleged above.

7.34 Fisher, through the actions of their agents, retaliated against Plaintiff because he engaged in protected activity under the FLSA.

7.35 As a result of Fisher's retaliation, Plaintiff has suffered economic damages and non-economic damages in an amount to be determined at trial. Plaintiff requests all compensatory damages, punitive damages, liquidated damages and equitable relief provided by law in addition to his attorney fees and costs pursuant to 29 U.S.C. §216.

### **Prayer for Relief**

WHEREFORE, Plaintiff prays this court grant relief against Fisher as follows:

1. Assume jurisdiction of the case;
2. Allow this action to proceed as as a representative action and certify this action as a class action under FRCP 23;
3. Declare Fisher has violated the FLSA and applicable Oregon law by failing to pay wages as alleged;
4. Enjoin Fisher from violating the FLSA and applicable Oregon law by failing to pay wages as alleged;
5. Award the Plaintiff and each member of the class the amount due as a result of Fisher's failure to pay the federal overtime wages due and an equal amount in liquidated damages;
6. Award the Plaintiff and each member of the class the amount due as a result of Fisher's failure to pay the overtime wages due and penalty wages in the amount of 30 days wages pursuant to Oregon law;
7. For permanent injunctive relief enjoining Fisher, its officers, employees and agents from engaging in any discrimination, retaliation or harassment.
8. Economic damages and future losses to be determined at trial;
9. Non-economic damages to be determined at trial;

10. Punitive damages in an amount to be determined at trial;
11. Reasonable costs and attorney fees; and
12. For such other and further relief as the Court may deem just and equitable.
13. Plaintiff demands a Jury Trial on all issues so triable.

DATED January 27, 2014.

*/s/ Aaron W. Baker*

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Aaron W. Baker, OSB No. 922220  
Of Attorneys for Plaintiff

JS 44 (Rev. 12/12)

### 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**  
THOM JENSEN

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

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Aaron W. Baker, Attorney at Law, 888 SW 5th Avenue, Suite 650,  
Portland, OR 97204 (503) 234-8800

**DEFENDANTS**

FISHER COMMUNICATIONS, INC. now known as SINCLAIR  
BROADCAST GROUP, INC.

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

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

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

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

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

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	<b>PERSONAL INJURY</b> <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	<b>PERSONAL INJURY</b> <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 <b>PERSONAL PROPERTY</b> <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  <b>LABOR</b> <input 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  <b>IMMIGRATION</b> <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  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <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))	<input type="checkbox"/> 375 False Claims Act <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
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<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	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" 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	<b>Habeas Corpus:</b> <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 <b>Other:</b> <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		<b>FEDERAL TAX SUITS</b> <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

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
FLSA / ADA  
Brief description of cause:  
Wage Claim and Wrongful Discharge

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** 1,000,000.00 **CHECK YES only if demanded in complaint:** **JURY DEMAND:**  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE 01/27/2014 SIGNATURE OF ATTORNEY OF RECORD

*Aaron W. Baker*

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

Print

Save As...

Reset

**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

\_\_\_\_\_ District of \_\_\_\_\_

	)	
	)	
<i>Plaintiff(s)</i>	)	
v.	)	Civil Action No.
	)	
	)	
	)	
<i>Defendant(s)</i>	)	

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

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:

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*



AO 440 (Rev. 06/12) 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 \$ \_\_\_\_\_ .

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:

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

**UNITED STATES DISTRICT COURT**

for the

\_\_\_\_\_ District of \_\_\_\_\_

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)  
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)

\_\_\_\_\_  
*Plaintiff(s)*

v.

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

\_\_\_\_\_  
*Defendant(s)*

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

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:

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*

AO 440 (Rev. 06/12) 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))*

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\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

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\_\_\_\_\_, 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 \$ \_\_\_\_\_ .

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:

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

# UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

<i>Plaintiff(s)</i> v.	)	
	)	
	)	
	)	
	)	Civil Action No.
	)	
	)	
<i>Defendant(s)</i>	)	

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

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:

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*

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

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

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\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

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\_\_\_\_\_, 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

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Other *(specify)*: \_\_\_\_\_ .

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

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: