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6  
7 Attorneys for Plaintiffs

8  
9 UNITED STATES DISTRICT COURT  
10 DISTRICT OF NEVADA

11  
12 VICTOR YOHEY, CHRIS TILLISCH, )  
individually and on behalf of themselves )  
13 and all other similarly situated, )  
14 Plaintiffs )  
15 v. )  
16 STOREY COUNTY FIRE PROTECTION )  
DISTRICT, )  
17 Defendant )  
18 \_\_\_\_\_ )

CASE NO.:

19 **PLAINTIFFS' COLLECTIVE ACTION COMPLAINT**

20 **INTRODUCTION**

21 COME NOW Plaintiffs, by and through their counsel, and respectfully submit their complaint  
22 against Defendant Storey County Fire Protection District and state as follows:

23 **PARTIES**

24 1. Plaintiffs are current and/or former employees of Defendant Storey County Fire  
25 Protection District ("Defendant"). At all times material herein, Defendant has employed the  
26 Plaintiffs as fire protection personnel.

27 2. Plaintiffs bring this action as a collective action in accordance with 29 U.S.C. §216(b)  
28 of the Fair Labor Standards Act ("FLSA") against the Defendant on behalf of themselves and all

1 others similarly situated because of Defendant’s unlawful deprivation of Plaintiffs’ rights to overtime  
2 compensation. Plaintiffs seek declaratory judgment under 28 U.S.C. § 2201 and compensation,  
3 damages, equitable and other relief available under the FLSA, as amended, 29 U.S. C. § 201, *et seq.*

4 3. At all times material herein, Plaintiffs and all others similarly situated have been  
5 “employees” within the meaning of the FLSA. 29 U.S.C. § 203(e)(1).

6 4. Plaintiffs have given written consent to be party-plaintiffs in this action, pursuant to  
7 29 U.S.C. § 216(b). Such written consents are appended to this Collective Action Complaint as  
8 Exhibit A.

9 5. Defendant is a political subdivision of the State of Nevada, and at all times material  
10 herein, Defendant has been a “public agency” and “employer” within the meaning of the FLSA, 29  
11 U.S.C. §§ 203(x), 203(d). Defendant employs or employed Plaintiffs and all others similarly situated  
12 and is located within the State of Nevada. Defendant has a principal office and place of business  
13 located at 145 North C Street, Virginia City, Nevada 89440.

14 **JURISDICTION AND VENUE**

15 6. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331, this  
16 action being brought under the FLSA and specifically pursuant to 29 U.S.C. § 216(b).

17 7. Venue is proper under 28 U.S.C. § 1391 because Defendant operates in this judicial  
18 district, and within its unofficial Northern Division, and the events or omissions giving rise to the  
19 claims stated herein occurred in this judicial district.

20 **FACTUAL ALLEGATIONS**

21 8. Plaintiffs re-allege, and incorporate by reference herein, paragraphs 1 through 7 of  
22 this Complaint.

23 9. Since June 30, 2015, as well as before, Plaintiffs and all others similarly situated  
24 have worked for the Defendant as firefighters, paramedics, emergency medical technicians, rescue  
25 workers or ambulance personnel.

26 10. Since June 30, 2015, and continuing to date, while working for Defendant, Plaintiffs’  
27 and all others’ similarly situated primary job duties have been, and remain, to protect and serve the  
28 public by engaging in fire suppression, emergency response and related non-exempt activities.

1 While on the scene of fire calls, the Plaintiffs and all others similarly situated, with their crew,  
2 engage in the control, suppression, and extinguishment of fires and the rescue of fire or accident  
3 victims, including the transport of victims to hospital, as necessary. Plaintiffs and all others similarly  
4 situated also respond to emergency medical calls and transport patients to hospital, as necessary.

5 11. While working as firefighters, paramedics, emergency medical technicians, rescue  
6 workers and ambulance personnel, Plaintiffs, as well as others similarly situated, are assigned to  
7 work, and in fact do work, a regular and recurrent schedule of forty-eight (48) hours on-duty,  
8 followed by ninety-six (96) hours off-duty. As a result, Plaintiffs and all others similarly situated  
9 are suffered or permitted to perform at least forty-eight (48) or seventy-two (72) hours of regularly  
10 scheduled work each week. Furthermore, this schedule results in Defendant suffering or permitting  
11 Plaintiffs and all others similarly situated to perform at least one hundred and twenty (120) hours  
12 of regularly scheduled work in two (2) of every three (3) fourteen (14)-day periods. In addition,  
13 Plaintiffs and all others similarly situated works extra shifts, outside of their regular schedule.  
14 Plaintiffs and all others similarly situated are therefore regularly assigned to work, and do work, in  
15 excess of forty (40) hours per week, as well as in excess of fifty-three (53) hours per week, in excess  
16 of one hundred and six (106) hours in a fourteen (14)-day period, and in excess of two hundred and  
17 twelve (212) hours in a twenty-eight (28) day period.

18 12. Defendant, at all times material herein, misclassifies Plaintiffs and all others similarly  
19 situated as “exempt” employees and unlawfully fails to pay any overtime premiums for overtime  
20 work. Instead, Defendant pays Plaintiffs and all others similarly situated a static biweekly wage and,  
21 for unscheduled shifts outside Plaintiffs’ and all others’ similarly situated regular schedule, a straight  
22 hourly rate.

23 13. Defendant, at all times material herein, has failed to pay Plaintiffs and all others  
24 similarly situated overtime premium pay at the rate of one and one-half times his/her regular rate of  
25 pay when it suffers or permits them to work in excess of forty (40) hours in a week, in excess of  
26 fifty-three (53) hours in a week, in excess of one hundred and six (106) hours in a fourteen (14)-day  
27 period, or in excess of two hundred and twelve (212) hours in a twenty-eight (28) day period.

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1 14. Defendant, at all times material herein, has known and should have known that  
2 uncompensated overtime work was being performed by Plaintiffs and all others similarly situated,  
3 because of, for example, Defendant established policies and procedures, work schedules, and  
4 observations of Plaintiffs and all others similarly situated. Therefore, Defendant's actions in refusing  
5 to provide Plaintiffs and all others similarly situated the rights and protections provided under the  
6 FLSA are willful in that Defendant knew its pay practices with respect to its firefighters, paramedics,  
7 emergency medical technicians, rescue workers and ambulance personnel was prohibited by the  
8 FLSA or, at the very least, showed a reckless disregard for the FLSA.

9 **COUNT I**

10 **VIOLATION OF SECTION 207(a) OF THE FAIR LABOR STANDARD ACT**

11 15. Plaintiffs re-allege, and incorporate by reference herein, paragraphs 1 through 14 of  
12 this Complaint.

13 16. During the times that Plaintiffs and all others similarly situated have worked in excess  
14 of forty (40) hours in a work week, Defendant failed to provide them with the rights and protections  
15 provided under the FLSA, including overtime pay at the rate of one and one-half times their regular  
16 rates of pay for all hours worked in excess of the hourly standards set forth under 29 U.S.C. § 207(a).

17 17. By failing to pay the Plaintiffs and all others similarly situated the overtime pay  
18 required under the law, Defendant has violated and is continuing to violate the provisions of the  
19 FLSA in a manner that is unreasonable, willful, and in bad faith. As a result, at all times material  
20 herein, Plaintiffs and all others similarly situated have been unlawfully deprived of overtime  
21 compensation and other relief.

22 18. As a result of Defendant's willful, unreasonable, and bad faith violations of the  
23 FLSA, there have become due and owing to Plaintiffs, and all others similarly situated, an amount  
24 that has not yet been precisely determined. The employment and work records for Plaintiffs and all  
25 others similarly situated (including time and attendance records) are in the exclusive possession,  
26 custody, and control of Defendant and Plaintiffs are unable to state at this time the exact amount  
27 owing to them. Defendant is under the duty imposed under the FLSA, 29 U.S.C. § 211(c), and

28 ///

1 various other statutory and regulatory provisions, to maintain and preserve payroll and other  
2 employment records with respect to Plaintiffs and all others similarly situated from which the  
3 amount of Defendant's liability can be ascertained.

4 19. Pursuant to 29 U.S.C. § 216(b), Plaintiffs and all others similarly situated are entitled  
5 to recover liquidated damages in an amount equal to their backpay damages for Defendant's failure  
6 to pay overtime compensation.

7 20. Plaintiffs and all others similarly situated are entitled to recover attorneys' fees and  
8 costs under 29 U.S.C. § 216(b).

9 **COUNT II**

10 **VIOLATION OF SECTION 207(k) OF THE FAIR LABOR STANDARDS ACT**

11 21. Plaintiffs re-allege, and incorporate by reference herein, paragraphs 1 through 20 of  
12 this Complaint.

13 22. Under the U.S. Department of Labor's regulations applicable to fire fighters covered  
14 under 29 U.S.C. § 207(k), (29 C.F.R. § 553.230), an employer must pay overtime compensation to  
15 such employees at a rate not less than one and one-half times their regular rate of pay for hours of  
16 work in excess of fifty-three (53) hours in a seven (7)-day work period, in excess of one hundred and  
17 six (106) hours in a fourteen (14)-day work period, or in excess of two hundred and twelve (212)  
18 hours in a maximum twenty-eight (28)-day work period (or in excess of a proportionate number of  
19 hours for work periods between seven (7) and twenty-eight (28) days)).

20 23. During the times that Plaintiffs and all others similarly situated have worked in excess  
21 of fifty-three (53) hours per work week, one hundred and six (106) hours per fourteen (14)-day  
22 period, and two hundred and twelve (212) hours per twenty-eight (28)-day period, Defendant has  
23 failed to provide them with the rights and protections provided under the FLSA, including overtime  
24 pay at the rate of one and one-half times their regular rates of pay for all hours worked in excess of  
25 the hourly standards set forth under 29 U.S.C. § 207(k) and 29 C.F.R. § 553.230.

26 24. By failing to pay the Plaintiffs and all others similarly situated the overtime pay  
27 required under the law, Defendant has violated and is continuing to violate the provisions of the  
28 FLSA in a manner that is unreasonable, willful, and in bad faith. As a result, at all times material

1 herein, Plaintiffs and all others similarly situated have been unlawfully deprived of overtime  
2 compensation and other relief.

3 25. As a result of Defendant's willful, unreasonable, and bad faith violations of the  
4 FLSA, there have become due and owing to Plaintiffs and all others similarly situated an amount that  
5 has not yet been precisely determined. The employment and work records for Plaintiffs and all  
6 others similarly situated (including time and attendance records) are in the exclusive possession,  
7 custody, and control of Defendant and Plaintiffs are unable to state at this time the exact amount  
8 owing to them. Defendant is under a duty imposed under the FLSA, 29 U.S.C. § 211(c), and  
9 various other statutory and regulatory provisions, to maintain and preserve payroll and other  
10 employment records with respect to Plaintiffs and all others similarly situated from which the  
11 amount of Defendant's liability can be ascertained.

12 26. Pursuant to 29 U.S.C. § 216(b), Plaintiffs and all others similarly situated are entitled  
13 to recover liquidated damages in an amount equal to their backpay damages for Defendant's failure  
14 to pay overtime compensation.

15 27. Plaintiffs and all others similarly situated are entitled to recover attorneys' fees and  
16 costs under 29 U.S.C. § 216(b)

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiffs, on their own behalf and on behalf of all others similarly situated  
19 pray that this Court:

20 (a) Enter judgment declaring that the Defendant has willfully and wrongfully violated  
21 its statutory obligations under federal law and deprived the Plaintiff and all others similarly situated  
22 of his/her rights;

23 (b) Order a complete and accurate accounting of all unpaid compensation to which the  
24 Plaintiffs and all others similarly situated are entitled;

25 (c) Award Plaintiffs and all others similarly situated compensatory relief in the form of  
26 unpaid compensation and liquidated damages equal to their unpaid compensation;

27 (d) Award Plaintiffs and all others similarly situated interest on their unpaid  
28 compensation;

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(e) Award Plaintiffs and all others similarly situated their reasonable attorneys' fees to be paid by the Defendant, and the costs and disbursements of this action; and

(f) Grant such other relief as may be just and proper.

DATED this 16<sup>th</sup> day of January, 2020.

DYER LAWRENCE, LLP

By: 

Thomas J. Donaldson  
Nevada Bar No. 5283  
Sue S. Matuska  
Nevada Bar No. 6051

Attorneys for Plaintiffs

Dyer Lawrence, LLP  
2805 Mountain Street  
Carson City, Nevada 89703  
(775) 885-1896

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**EXHIBIT “A”**

Dyer Lawrence, LLP  
2805 Mountain Street  
Carson City, Nevada 89703  
(775) 885-1896

**EXHIBIT “A”**



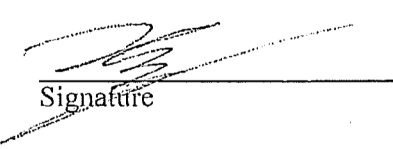
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CONSENT TO SUE

REQUEST TO BECOME PARTY-PLAINTIFF

I hereby consent to become a party-plaintiff in a lawsuit concerning my employment with Storey County, Nevada, as a fire protection personnel employee, to enforce my rights and recover overtime wages and other relief under the Fair Labor Standards Act.

Victor Yohey  
Print Name Clearly

  
Signature

Dyer Lawrence, LLP  
2805 Mountain Street  
Carson City, Nevada 89703  
(775) 885-1896

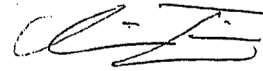
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CONSENT TO SUE

REQUEST TO BECOME PARTY-PLAINTIFF

I hereby consent to become a party-plaintiff in a lawsuit concerning my employment with Storey County, Nevada, as a fire protection personnel employee, to enforce my rights and recover overtime wages and other relief under the Fair Labor Standards Act.

Chris Tillisch  
Print Name Clearly



Signature

Dyer Lawrence, LLP  
2805 Mountain Street  
Carson City, Nevada 89703  
(775) 885-1896

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
Victor Yohey, Chris Tillisch
(b) County of Residence of First Listed Plaintiff
(c) Attorneys (Firm Name, Address, and Telephone Number)
Thomas J. Donaldson & Sue S. Matuska, Dyer Lawrence, LLP, 2805 Mountain Street, Carson City, Nevada 89703 (775) 885-1896

DEFENDANTS
Storey County Fire Protection District
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)
Jared Hague, Sutton Hague Law Corporation, 9790 Gateway, Suite 200, Reno, Nevada 89521 (775) 284-2770

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)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1
2 2
3 3
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation
PTF DEF
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IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, Labor, etc.

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
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, 29 U.S.C. 201, et seq.
Brief description of cause:
Action to recover unpaid overtime wages and related relief, under the Fair Labor Standards Act

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 SIGNATURE OF ATTORNEY OF RECORD

## 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.



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**