

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DAVID SIMISTER, on behalf of)
himself and others similarly situated,)
)
Plaintiffs,)
)
vs.)
)
COBB COUNTY, GA,)
)
Defendant.)

COMPLAINT

Case No. _____

Jury Trial Demand

COMPLAINT

Plaintiff, David Simister, on behalf of himself and those similarly situated, by and through his counsel, Lance J. LoRusso of LoRusso Law Firm, P.C., respectfully submits this Complaint against Defendant Cobb County, Georgia, and states as follows:

PRELIMINARY STATEMENT

1.

Plaintiff is a current employee of Cobb County, Georgia, and he, on his own behalf and on behalf of those similarly situated, brings this lawsuit as a collective action in accordance with 29 U.S.C. § 216(b) of the Fair Labor Standards Act (“FLSA”) against Defendant Cobb County, Georgia, on behalf of himself and all

those similarly situated because of Defendant's unlawful deprivation of Plaintiff's rights to overtime compensation. Plaintiff and those similarly situated seek a declaratory judgment under 28 U.S.C. §§ 2201 and 2202 and compensation, damages, equitable and other relief available under the FLSA, as amended, 29 U.S.C. §201, *et seq.*

JURISDICTION AND VENUE

2.

Jurisdiction over this action is conferred upon this Court by 28 U.S.C. § 1331 and 29 U.S.C. § 216(b).

3.

Venue is proper in this Court pursuant to 28 U.S.C. § 1391, as Defendant is located within the Northern District of Georgia and a substantial portion of the events and omissions giving rise to this claim occurred within the Northern District of Georgia.

PARTIES

4.

Plaintiff David Simister and those similarly situated are each employees or former employees of Defendant Cobb County, Georgia, in the position of "Fire Captain" at the Cobb County Fire Department ("CCFD") and some were

previously employed by Defendant in the Cobb County Senior Services (“Senior Services”) and Cobb County Elections and Voter Registration (“Elections”) departments.

5.

Pursuant to 29 U.S.C. §§ 216(b) and 256, the named Plaintiff has executed and hereby files with the Court his consent in writing to become a party Plaintiff in this action, which is appended hereto as Exhibit A. Should other individuals similarly situated seek to join this action, their consents will be filed with the Court. Written consent forms set forth each Plaintiff’s name and intent to be party to this suit.

6.

Defendant, Cobb County, Georgia, is a county existing under the laws of the State of Georgia, over which this Court has jurisdiction, and has a principal place of business in Cobb County, Georgia, within the Northern District of Georgia. Cobb County operates the Cobb County Fire Department (CCFD), Cobb County Senior Services (“Senior Services”), and the Cobb County Elections and Voter Registration (“Elections”) departments.

FACTS

7.

At all times material, Plaintiff and those similarly situated have worked for Defendant at CCFD in the position of “Fire Captain” and previously worked for Defendant in separate positions for Senior Services and/or Elections.

8.

Plaintiff and those similarly situated, while employed by Defendant, have been a “employees” within the meaning of the FLSA, 29 U.S.C. § 203(e)(1).

9.

Defendant is an “employer” as defined by 29 U.S.C. § 203(d) and a “public agency” within 29 U.S.C. § 203(x). Upon information and belief, Defendant at all relevant times has been aware of the provisions of the FLSA.

10.

As a Fire Captain working on behalf of the Defendant, Plaintiff and those similarly situated had and continue to have the primary job duty to protect and serve the public by engaging in fire suppression, emergency response, and related activities. Fire Captains are required to respond with their crew to all fire calls and/or emergency calls assigned to their particular fire station.

11.

While on the scene of fire calls, Plaintiff and those similarly situated work alongside the crew, engage in the control, suppression, and extinguishing of fires, and participate in the rescue of fire or accident victims. Plaintiff and those similarly situated are also required to participate in the same physical fitness program and complete all required training as the other members of the crew on which they serve. Thus, Plaintiff and those similarly situated are non-exempt employees covered by the overtime provisions of the FLSA.

12.

Within the last three years, and continuing to date, while working in the position of Fire Captain, Plaintiff and those similarly situated have been assigned to work shifts by Defendant following the repeating pattern of 24 hours on-duty, then 48 hours off-duty. This cycle repeats every three days, and as a result, Plaintiff and those similarly situated routinely work more than 40 hours in a workweek, and in fact at least 168 hours every 21 days.

13.

Yet, despite causing Plaintiff to suffer work and permitting Plaintiff and those similarly situated to work in excess of the statutory maximums of 40 hours in a workweek and 159 hours in each 21-day cycle, Defendant at all material times

and ongoing, has failed to pay Plaintiff and those similarly situated at the required rate of one and one-half times their regular rate of pay for those hours.

14.

Defendant's actions in refusing to provide Plaintiff and those similarly situated the rights and protections provided under the FLSA are willful in that Defendant knew its pay practices with respect to Plaintiff and those similarly situated were prohibited by the FLSA or, at the very least, showed a reckless disregard for the FLSA.

15.

Plaintiff and those similarly situated were also employed by Defendant in separate positions for Senior Services and/or Elections, yet Defendant failed to properly or fully compensate Plaintiff and those similarly situated for their overtime hours in so far as Defendant failed to pay them overtime at a blended rate as required by the FLSA and the regulations promulgated thereunder.

16.

At all times material, Plaintiff's and those similarly situated non-overtime rate of pay as Fire Captains and employees for Senior Services and/or elections was different.

17.

Defendant failed to properly calculate and compensate Plaintiff's and those similarly situated overtime pursuant to the Fair Labor Standards Act ("FLSA") during workweeks where Plaintiff performed work for Defendant as a Fire Captain and work for Defendant at Senior Services and/or Elections.

18.

Defendant failed to use the "weighted average" as required by the FLSA to determine Plaintiff's and those similarly situated regular rate of pay for workweeks where Plaintiff and those similarly situated performed work for Defendant as a Fire Captain and for Defendant at Senior Services and/or Elections.

19.

Under the "weighted average" method, total earnings (except statutory exclusions) are computed to include the compensation of Plaintiff's and those similarly situated during the workweek from all such rates, and are then divided by the total number of hours worked at all jobs.

20.

For instance, if Plaintiff and those similarly situated worked 60 hours in a week with 49 hours as a Fire Captain and 11 hours for Senior Services, the pay would be 49 hours multiplied by their hourly rate of pay as a Fire Captain for the

workweek plus 11 hours multiplied by their hourly rate of pay for Senior Services for the workweek. To compute the regular rate of pay, the sum of the previous equation is divided by the total hours worked (60). The total amount of overtime would be based on the combination of hours worked for each separate job instead of Defendant's method of computing overtime separately.

21.

Yet, despite suffering and permitting Plaintiff and those similarly situated to work in excess of the statutory maximums of 40 hours in a workweek and 159 hours in each 21-day cycle, Defendant at all material times and ongoing, has failed to pay Plaintiff and those similarly situated at the required rate of one and one-half times his regular rate of pay for those hours.

22.

At all relevant times, Defendant failed to compensate Plaintiff at one-and-one-half times his regular hourly rate for all hours worked in excess of forty-three hours per workweek in violation of FLSA §7(k), 29 U.S.C. § 207(k).

23.

Instead, Defendant eliminated positions with Elections and Senior Services for Plaintiff and those similarly situated when Plaintiff and those similarly situated complained about not being properly compensated for overtime pay. Defendant

retaliated against Plaintiff and others similarly situated because Defendant was sued by a previous Fire Captain for failing to pay any overtime wages. Defendant forced several fire captains to sign settlement agreements.

24.

Defendant's actions in refusing to provide Plaintiff the rights and protections provided under the FLSA are willful in that Defendant knew its pay practices with respect to Plaintiff and those similarly situated was prohibited by the FLSA or, at the very least, showed a reckless disregard for the FLSA.

25.

In failing and refusing to compensate Plaintiff and those similarly situated for overtime as required by the FLSA, Defendant did not rely on any letter ruling or advice obtained from the Department of Labor indicating that Plaintiff was subject to any exemption from the maximum hour provisions of the FLSA.

26.

Defendant's actions were retaliatory in terminating the employment of Plaintiff and those similarly situated employment for Senior Services and Elections as a result of gaining knowledge of complaints regarding the failure of Defendant to properly pay overtime as required by the FLSA.

COUNT I
VIOLATION OF § 207(a) OF THE FAIR LABOR STANDARDS ACT

27.

Plaintiff incorporates the allegations set forth above as if each were explicitly set forth herein.

28.

During the times that Plaintiff and those similarly situated have worked in excess of 40 hours in a workweek, Defendant has failed to provide the rights and protections provided under the FLSA, including overtime pay at the rate of one and one-half times their regular rate of pay for all hours of worked in excess of the hourly standards set forth under 29 U.S.C. § 207(a).

29.

By failing to pay Plaintiff and those similarly situated the overtime pay required under the law, Defendant has violated and is continuing to violate the provisions of the FLSA in a manner that is unreasonable, willful and in bad faith. As a result, at all times material herein, Plaintiff and those similarly situated are entitled to seek relief for the maximum period allowed under the law during which time they have been unlawfully deprived of overtime compensation and other relief.

30.

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

31.

Pursuant to 29 U.S.C. § 216(b), Plaintiff and those similarly situated are entitled to recover liquidated damages in an amount equal to their back pay damages for Defendant's failure to pay overtime compensation.

32.

Plaintiff and those similarly situated are entitled recover attorneys' fees and costs under 29 U.S.C. § 216(b).

COUNT II
VIOLATION OF § 207(k) OF THE FAIR LABOR STANDARDS ACT

33.

Plaintiff incorporates the allegations set forth above as if each were explicitly set forth herein.

34.

Under the U.S. Department of Labor's regulations applicable to fire fighters covered under 29 U.S.C. § 207(k), 29 C.F.R. § 553.230 (2020), an employer must pay overtime compensation to such employees at a rate not less than one and one-half times their regular rate of pay for hours of work in excess of 53 hours in a 7-day work period or in excess of 212 hours in a maximum 28-day work period (or in excess of a proportionate number of hours for work periods between 7 and 28 days, such as 159 hours for a work period of 21 days).

35.

Under the U.S. Department of Labor's regulations applicable to employees performing two different types of work for the same employer in a workweek covered under 29 C.F.R. § 778.115 (2020), where an employee in a single workweek works at two or more different types of work for which different non-overtime rates of pay (of not less than the applicable minimum wage) have been established, his regular rate for that week is the weighted average of such rates.

That is, his total earnings (except statutory exclusions) are computed to include his compensation during the workweek from all such rates, and are then divided by the total number of hours worked at all jobs.

36.

When Plaintiff and those similarly situated worked in excess of the 159 hours in a 21-day work period, or otherwise worked beyond the applicable hourly threshold, Defendant failed to provide the rights and protections provided under the FLSA, including overtime pay at the rate of one and one-half times their regular rates of pay for all hours Plaintiff and those similarly situated have worked in excess of the hourly standards set forth under 29 U.S.C. § 207(k), 29 C.F.R. § 553.230 (2020), and 29 C.F.R. § 778.115 (2020).

37.

By failing to pay Plaintiff and those similarly situated the overtime pay required under the law, Defendant has violated and is continuing to violate the provisions of the FLSA in a manner that is unreasonable, willful and in bad faith. As a result, at all times material herein, Plaintiff and those similarly situated are entitled to seek relief for the maximum period allowed under the law during which time he has been unlawfully deprived of overtime compensation and other relief.

38.

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

39.

None of the exemptions provided by the FLSA regulating the duty of employers to pay employees for all hours worked and to pay employees at a time-and-a-half rate for all hours worked in excess of the statutory amount in a given workweek are applicable to Defendant or Plaintiff and those similarly situated.

40.

Pursuant to 29 U.S.C. § 216(b), Plaintiff and those similarly situated are

entitled to recover liquidated damages in an amount equal to their back pay damages for Defendant's failure to pay overtime compensation.

COUNT III VIOLATION OF § 215 OF THE FAIR LABOR STANDARDS ACT

41.

Plaintiff incorporates the allegations set forth above as if each were explicitly set forth herein.

42.

Plaintiff and those similarly situated complained to Defendant regarding its failure to properly compensate Plaintiff and those similarly situated. Plaintiff and those similarly situated thus engaged in a protected activity.

43.

Plaintiff and those similarly situated were considered “those similarly situated” in a lawsuit for overtime wages for “Fire Captains” employed by Defendant. Plaintiff and those similarly situated thus engaged in a protected activity.

44.

Defendant took a materially adverse action by terminating Plaintiff and those similarly situated from their positions at Cobb County Senior Services and

Cobb County Elections following complaints and the settlement of the lawsuit.

45.

These adverse actions were causally connected to the protected activity as occurred as a result of the involvement of Plaintiff and those similarly situated in complaints and a lawsuit for overtime compensation.

COUNT IV ATTORNEYS' FEES AND COSTS UNDER THE FLSA

46.

Plaintiff incorporates the allegations set forth above as if each were explicitly set forth herein.

47.

Plaintiff and those similarly situated are entitled to recover attorneys' fees and costs under 29 U.S.C. § 216(b).

DEMAND FOR A JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure and applicable law, Plaintiff hereby demands that these claims be tried before a jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff and those similarly situated pray that this Court:

- (a) Designate this action as a collective action on behalf of Plaintiffs and those similarly situated, and issue notice pursuant to 29

U.S.C. § 216(b) to all similarly situated members of the potential collective class apprising them of the pendency of this action, and permitting them to assert timely FLSA claims in this action by filing individual consent forms pursuant to 29 U.S.C. § 216(b);

- (b) Enter judgment declaring that Defendant has willfully and wrongfully violated its statutory obligations under federal law, and deprived Plaintiff and those similarly situated of their rights;
- (c) Order a complete and accurate accounting of all the compensation to which Plaintiff and those similarly situated are entitled;
- (d) Award Plaintiff and those similarly situated compensatory relief in the form of liquidated damages equal to their unpaid compensation;
- (e) Award Plaintiff and those similarly situated interest on their unpaid compensation;
- (f) Award Plaintiff and those similarly situated lost wages for Defendant's retaliatory actions of terminating their positions at Cobb County Senior Services and Cobb County Elections;
- (g) Order Defendant to reinstate Plaintiff and those similarly situated

to their positions at Cobb County Senior Services and Cobb
County Elections;

- (h) Award Plaintiff his reasonable attorneys' fees to be paid by Defendant, and the costs and disbursements of this action; and
- (i) Grant such other relief as may be just and proper.

Respectfully submitted this 13th day of August, 2020.

LORUSSO LAW FIRM, P.C.

/s/Lance J. LoRusso

Lance J. LoRusso

Georgia Bar No. 458023

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Building 8, Suite 200
Atlanta, GA 30339
lance@lorussolawfirm.com
Counsel for Plaintiffs
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Phone: (770) 644-2378

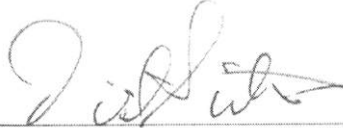
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EXHIBIT “A”

**Consent to Become a Plaintiff
In a Wage and Hour Overtime Lawsuit**

I hereby consent to be a party plaintiff in a lawsuit under the Fair Labor Standards Act concerning my employment with Cobb County to recover unpaid overtime compensation and other relief.

DAVID A. SIMISTER
Print Name Clearly


Signature

JS44 (Rev. 6/2017 NDGA)

CIVIL COVER SHEET

The JS44 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 is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

<p>I. (a) PLAINTIFF(S) DAVID SIMISTER</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>COBB</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p>	<p>DEFENDANT(S) COBB COUNTY, GA</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>COBB</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p><small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small></p>
<p>(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)</p> <p>Lance J. LoRusso 770-644-2378 LoRusso Law Firm, PC lance@lorussolawfirm.com 1827 Powers Ferry Rd, SE Building 8, Ste 200 Atlanta, GA 30339</p>	<p>ATTORNEYS (IF KNOWN)</p>

<p>II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)</p> <p><input type="checkbox"/> 1 U.S. GOVERNMENT PLAINTIFF <input checked="" type="checkbox"/> 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)</p> <p><input type="checkbox"/> 2 U.S. GOVERNMENT DEFENDANT <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) (FOR DIVERSITY CASES ONLY)</p> <table style="width:100%; border: none;"> <tr> <td style="text-align: center; width: 10%;"><small>PLF</small></td> <td style="text-align: center; width: 10%;"><small>DEF</small></td> <td style="width: 40%;"></td> <td style="text-align: center; width: 10%;"><small>PLF</small></td> <td style="text-align: center; width: 10%;"><small>DEF</small></td> <td style="width: 10%;"></td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>CITIZEN OF THIS STATE</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td>INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>CITIZEN OF ANOTHER STATE</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td>INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>CITIZEN OR SUBJECT OF A FOREIGN COUNTRY</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td>FOREIGN NATION</td> </tr> </table>	<small>PLF</small>	<small>DEF</small>		<small>PLF</small>	<small>DEF</small>		<input type="checkbox"/> 1	<input type="checkbox"/> 1	CITIZEN OF THIS STATE	<input type="checkbox"/> 4	<input type="checkbox"/> 4	INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE	<input type="checkbox"/> 2	<input type="checkbox"/> 2	CITIZEN OF ANOTHER STATE	<input type="checkbox"/> 5	<input type="checkbox"/> 5	INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	<input type="checkbox"/> 3	<input type="checkbox"/> 3	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	<input type="checkbox"/> 6	<input type="checkbox"/> 6	FOREIGN NATION
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IV. 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 District) 6 MULTIDISTRICT LITIGATION - TRANSFER 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT

8 MULTIDISTRICT LITIGATION - DIRECT FILE

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Fair Labor Standards Act, 29 U.S.C. § 201, et seq. and 29 U.S.C. § 216(b).

This is an action for unpaid overtime and other relief under the Fair Labor Standards Act.

(IF COMPLEX, CHECK REASON BELOW)

<input type="checkbox"/> 1. Unusually large number of parties.	<input type="checkbox"/> 6. Problems locating or preserving evidence
<input type="checkbox"/> 2. Unusually large number of claims or defenses.	<input type="checkbox"/> 7. Pending parallel investigations or actions by government.
<input type="checkbox"/> 3. Factual issues are exceptionally complex	<input type="checkbox"/> 8. Multiple use of experts.
<input type="checkbox"/> 4. Greater than normal volume of evidence.	<input type="checkbox"/> 9. Need for discovery outside United States boundaries.
<input type="checkbox"/> 5. Extended discovery period is needed.	<input type="checkbox"/> 10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY			
RECEIPT # _____	AMOUNT \$ _____	APPLYING IFP _____	MAG. JUDGE (IFP) _____
JUDGE _____	MAG. JUDGE _____ <small>(Referral)</small>	NATURE OF SUIT _____	CAUSE OF ACTION _____

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
- 120 MARINE
- 130 MILLER ACT
- 140 NEGOTIABLE INSTRUMENT
- 151 MEDICARE ACT
- 160 STOCKHOLDERS' SUITS
- 190 OTHER CONTRACT
- 195 CONTRACT PRODUCT LIABILITY
- 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
- 220 FORECLOSURE
- 230 RENT LEASE & EJECTMENT
- 240 TORTS TO LAND
- 245 TORT PRODUCT LIABILITY
- 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
- 315 AIRPLANE PRODUCT LIABILITY
- 320 ASSAULT, LIBEL & SLANDER
- 330 FEDERAL EMPLOYERS' LIABILITY
- 340 MARINE
- 345 MARINE PRODUCT LIABILITY
- 350 MOTOR VEHICLE
- 355 MOTOR VEHICLE PRODUCT LIABILITY
- 360 OTHER PERSONAL INJURY
- 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- 365 PERSONAL INJURY - PRODUCT LIABILITY
- 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
- 371 TRUTH IN LENDING
- 380 OTHER PERSONAL PROPERTY DAMAGE
- 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
- 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 440 OTHER CIVIL RIGHTS
- 441 VOTING
- 442 EMPLOYMENT
- 443 HOUSING/ ACCOMMODATIONS
- 445 AMERICANS with DISABILITIES - Employment
- 446 AMERICANS with DISABILITIES - Other
- 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
- 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
- 510 MOTIONS TO VACATE SENTENCE
- 530 HABEAS CORPUS
- 535 HABEAS CORPUS DEATH PENALTY
- 540 MANDAMUS & OTHER
- 550 CIVIL RIGHTS - Filed Pro se
- 555 PRISON CONDITION(S) - Filed Pro se
- 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
- 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
- 720 LABOR/MGMT. RELATIONS
- 740 RAILWAY LABOR ACT
- 751 FAMILY and MEDICAL LEAVE ACT
- 790 OTHER LABOR LITIGATION
- 791 EMPL. RET. INC SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
- 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT
- 835 PATENT-ABBREVIATED NEW DRUG APPLICATIONS (ANDA) - a/k/a Hatch-Waxman cases

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395f)
- 862 BLACK LUNG (923)
- 863 DIWC (405(g))
- 863 DIWW (405(g))
- 864 SSID TITLE XVI
- 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U S. Plaintiff or Defendant)
- 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
- 376 Qui Tam 31 USC 3729(a)
- 400 STATE REAPPORTIONMENT
- 430 BANKS AND BANKING
- 450 COMMERCE/ICC RATES/ETC.
- 460 DEPORTATION
- 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- 480 CONSUMER CREDIT
- 490 CABLE/SATELLITE TV
- 890 OTHER STATUTORY ACTIONS
- 891 AGRICULTURAL ACTS
- 893 ENVIRONMENTAL MATTERS
- 895 FREEDOM OF INFORMATION ACT
- 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
- 950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTI TRUST
- 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION (Confirm / Vacate / Order / Modify)

*** PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ Unknown
 JURY DEMAND YES NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE _____ DOCKET NO. _____

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
- 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. _____, WHICH WAS DISMISSED. This case IS IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

/s/ Lance J. LoRusso

08/13/2020

SIGNATURE OF ATTORNEY OF RECORD

DATE