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14 Attorneys for Plaintiff(s)

15 **UNITED STATES DISTRICT COURT**
16 **DISTRICT OF HAWAII**

17 **ROBERT M. HAYSLIP**, on behalf of
18 himself and other similarly situated
19 individuals,

20 **Plaintiff(s),**

21 **v.**

22 **CITY AND COUNTY OF**
23 **HONOLULU,**

24 **Defendant.**
25
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Case No.

**COMPLAINT FOR VIOLATIONS OF THE
FAIR LABOR STANDARDS ACT**

**COLLECTIVE ACTION - 29 U.S.C. § 216
Jury Trial Demand**

1 **PRELIMINARY STATEMENT**

2 1. Plaintiff(s) are or were employed by Defendant City and County of
3 Honolulu (“Defendant” or “the City”) and bring this action pursuant to the Fair
4 Labor Standards Act (“FLSA”), 29 U.S.C. Section 201 *et seq.* to recover unpaid
5 overtime and other compensation, interest thereon, liquidated damages, costs of
6 suit, reasonable attorney fees, and other relief.

7 2. This action arises from Defendant’s failure to properly calculate the
8 “regular rate” of pay used to calculate Plaintiff(s)’ overtime compensation under
9 the FLSA and/or its failure to pay overtime entirely and/or its failure to timely pay
10 overtime.

11 **JURISDICTION AND VENUE**

12 3. Jurisdiction of this action is conferred on this Court by 28 U.S.C.
13 Section 1331 and 29 U.S.C. Section 216(b). This Court has subject matter
14 jurisdiction pursuant to 29 U.S.C. Sections 207 *et seq.* Venue lies within this
15 district pursuant to 28 U.S.C. Section 1391.

16 **PARTIES**

17 4. Plaintiff(s) are current and former employees of Defendant.
18 Plaintiff(s) are or were “employees” within the meaning of 29 U.S.C. Section
19 203(e) and entitled to the rights, protections, and benefits of the FLSA.

20 5. Defendant is a political subdivision of the State of Hawaii. Defendant
21 is an “employer” within the meaning of 29 U.S.C. Section 203(d), an “enterprise”
22 under 29 U.S.C. Section 203(r), and a “public agency” within the meaning of 29
23 U.S.C. Section 203(x). Defendant employs or employed the Plaintiff(s).
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COLLECTIVE ACTION

1
2 6. Plaintiff(s) bring this action on behalf of themselves and other
3 similarly situated individuals who are or were non-exempt employees in
4 Defendant’s Emergency Services Department employed as Emergency Medical
5 Technicians and/or Paramedics at any time during the three years preceding the
6 filing of this action and were deprived of their complete statutorily required
7 overtime compensation as described in this Complaint.

8 7. Defendant currently employs approximately 145 Paramedics in the
9 classes of Mobile Emergency Care Specialists, (MECS) I, II and III, who primarily
10 provide pre-hospital emergency medical care to injured and/or ill persons at the
11 advanced life support level, among other duties.

12 8. Defendant currently employs approximately 78 Emergency Medical
13 Technicians (EMTs) in the classes of Emergency Medical Technicians (EMT) I, II
14 and III, who primarily provide basic life support services to injured and/or ill
15 persons, assist Paramedics, drive ambulances and dispatch ambulances to respond
16 to 911 calls, among other duties.

17 9. In addition to the current number of employed Paramedics and
18 Emergency Medical Technicians, there are approximately 75 retired and/or
19 separated Paramedics and/or Emergency Medical Technicians, for an approximate
20 Class size in excess of 300 individuals.

21 10. Pursuant to 29 U.S.C. Sections 216(b) and 256, the named Plaintiff(s)
22 have executed and hereby file with the Court their consents in writing to become
23 party Plaintiff(s) in this action. (**Exhibit A**) When other similarly situated
24 individuals join this action, their consents will be filed with the Court. The written
25 consent forms identify each Plaintiff by name and reflect their intent to be a party
26 to this lawsuit.

1 **FACTUAL ALLEGATIONS**

2 11. Plaintiff(s) and all similarly situated individuals are or were non-
3 exempt employees of Defendant during the three years preceding the filing of this
4 action.

5 12. At all times relevant herein, Defendant required or suffered or
6 permitted Plaintiff(s) to work overtime hours under 29 U.S.C. Section 207.

7 **The Regular Rate**

8 13. At all times relevant herein, Defendant failed to properly calculate the
9 “regular rate” of pay upon which the overtime compensation for Plaintiff(s) and all
10 similarly situated individuals must be based under 29 U.S.C. Section 207(a).

11 14. Plaintiff(s) must be paid overtime based on a 40-hour work week.
12 Plaintiff(s) do not have the “responsibility to engage in fire suppression” and do
13 not qualify for any exception to the 40-hour workweek exemptions found in 29
14 U.S.C. Section 207(k).

15 15. Plaintiff(s) are entitled to compensation in addition to their hourly
16 wage which must be included in the “regular rate” for purposes of calculating
17 FLSA overtime.

18 16. Defendant has failed to include all required compensation earned by
19 Plaintiff(s) when calculating the “regular rate” to be used in paying FLSA overtime
20 resulting in monetary loss to Plaintiff(s).

21 **Failure to Pay Overtime**

22 17. Defendant has failed to pay employees for work performed that
23 qualifies as FLSA overtime.

24 18. From information and belief, Plaintiff(s) understand that failures to
25 pay for FLSA overtime occur due to human and mechanical error through the use
26 of multiple systems to track time.
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1
2 **Failure to Timely Pay Overtime**

3 19. Defendant has failed to pay overtime for work performed that
4 qualifies as FLSA overtime within a timely manner.

5 20. Plaintiff(s) receive wages on regular pay days, twice monthly.

6 21. Defendant has failed to pay FLSA overtime by the regular pay day for
7 the pay period in which the work was performed and, additionally, failed to pay
8 FLSA overtime by the subsequent regular pay day.

9 22. From information and belief, Plaintiff(s) understand that failures to
10 pay for FLSA overtime in a timely manner occur due to human and mechanical
11 error through the use of multiple systems to track time.

12 **Liquidated Damages and Willfulness**

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14 23. Defendant's failure to properly calculate and/or pay and/or timely pay
15 the overtime payments due Plaintiff(s) and all similarly situated individuals was
16 neither reasonable nor in good faith.

17 24. Defendant's failure to properly calculate and/or pay and/or timely pay
18 the overtime payments due Plaintiff(s) and all similarly-situated individuals was a
19 willful violation of the FLSA.

20 **FIRST COUNT**

21 **Violation of 29 U.S.C. Section 207(a)-The Failure To Properly Calculate The**
22 **Regular Rate**

23 25. Plaintiff(s) incorporate by reference the above paragraphs as though
24 set forth herein.

25 26. Defendant required, suffered or permitted Plaintiff(s) and all similarly
26 situated individuals to work overtime, but failed to properly compensate
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1 Plaintiff(s) and similarly-situated individuals at time and one-half the “regular
2 rate” of pay.

3 27. Defendant’s failure to compensate Plaintiff(s) and all similarly
4 situated individuals as required by the FLSA was neither reasonable nor in good
5 faith.

6 28. Defendant’s failure to compensate Plaintiff(s) and all similarly
7 situated individuals as required by the FLSA was a willful violation of the FLSA.
8 Based on Defendant’s willful violation of the FLSA, Plaintiff(s) and all similarly
9 situated individuals are entitled to damages, liquidated damages, attorney’s fees
10 and costs as allowed by the FLSA for a period of three years immediately
11 preceding the filing of this action.

12 29. The employment and work records for Plaintiff(s) and similarly
13 situated individuals are in the exclusive possession, custody and control of the
14 Defendant, and Plaintiff(s) are unable to state at this time the exact amounts owing
15 to them. The Defendant is under a duty imposed by the FLSA, 29 U.S.C. Section
16 211(c), and the regulations of the United States Department of Labor, to maintain
17 and preserve payroll and other employment records.

18 **SECOND COUNT**

19 **Violation of 29 U.S.C. Section 207(a) – Failure To Pay Overtime**

20 30. Plaintiff(s) incorporate by reference paragraphs the above paragraphs
21 as though set forth herein.

22 31. Defendant required, suffered or permitted Plaintiff(s) and all similarly
23 situated individuals to work overtime, but failed to properly compensate
24 Plaintiff(s) and similarly-situated individuals at time and one-half the “regular
25 rate” of pay.
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1 32. Defendant’s failure to compensate Plaintiff(s) and all similarly
2 situated individuals as required by the FLSA was neither reasonable nor in good
3 faith.

4 33. Defendant’s failure to compensate Plaintiff(s) and all similarly
5 situated individuals as required by the FLSA was a willful violation of the FLSA.
6 Based on Defendant’s willful violation of the FLSA, Plaintiff(s) and all similarly
7 situated individuals are entitled to damages, liquidated damages, attorney’s fees
8 and costs as allowed by the FLSA for a period of three years immediately
9 preceding the filing of this action.

10 **THIRD COUNT**

11 **Violation of 29 U.S.C. Section 207(a) – Failure To Timely Pay Overtime**

12 34. Plaintiff(s) incorporate by reference the above paragraphs as though
13 set forth herein.

14 35. Defendant required, suffered or permitted Plaintiff(s) and all similarly
15 situated individuals to work overtime, but failed to timely and properly compensate
16 Plaintiff(s) and similarly-situated individuals at time and one-half the “regular
17 rate” of pay.

18 36. Defendant’s failure to compensate Plaintiff(s) required by the FLSA
19 was neither reasonable nor in good faith.

20 37. Defendant’s failure to compensate Plaintiff(s) as required by the
21 FLSA was a willful violation of the FLSA. Based on Defendant’s willful violation
22 of the FLSA, Plaintiff(s) are entitled to damages, liquidated damages, attorney’s
23 fees and costs as allowed by the FLSA for a period of three years immediately
24 preceding the filing of this action.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff(s) and all similarly situated individuals pray for
27 judgment as follows:
28

1 1. Recovery of monetary damages in the form of unpaid overtime
2 compensation, liquidated damages equal to the amount of unpaid overtime
3 compensation, plus prejudgment and post-judgment interest;

4 2. A determination that Defendant willfully violated the FLSA thereby
5 entitling Plaintiff(s) and all similarly situated individuals to recover monetary
6 damages for a three-year period preceding the filing of this action;

7 3. A complete and accurate accounting of all compensation to which
8 Plaintiff(s) and all similarly situated individuals are entitled;

9 4. For reasonable attorneys' fees pursuant to 29 U.S.C. Section 216(b);

10 5. For costs of suit incurred herein, and

11 6. For such other and further relief as the Court deems just and proper.

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JURY TRIAL DEMAND

15 Plaintiff(s) hereby demand a jury trial as provided by Rule 38(a) of the
16 Federal Rules of Civil Procedure.

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19 Dated: September 14, 2022

Respectfully submitted,

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/s/CHASID M. SAPOLU
By: Chasid M. Sapolu
Attorney for Plaintiff(s)

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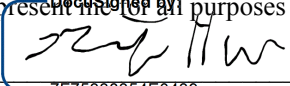
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28

**CONSENT TO JOIN ACTION
(FAIR LABOR STANDARDS ACT, 29 U.S.C. § 216(b))
LITIGATION ENTITLED:
*HAYSLIP. v. CITY AND COUNTY OF HONOLULU***

I, ROBERT M. HAYSLIP, of Honolulu County, State of Hawaii, hereby consent to become a party to the litigation action entitled ***Hayslip v. City and County of Honolulu*** filed or to be filed in the District Court of Hawaii under the Fair Labor Standards Act (FLSA). The lawsuit alleges that the City and County of Honolulu failed to properly compensate its employees for overtime hours worked and failed to make timely payments to its employees for overtime hours worked. I am, or was, employed by the City and County of Hawaii during some or all of the period in the three years preceding the signing of this Consent. This action has been brought on my behalf and on the behalf of similarly situated employees of the City and County of Hawaii pursuant 29 U.S.C. § 216 (b) of the FLSA. Unpaid overtime compensation, liquidated damages, attorney’s fees, costs and other relief are sought in the action.

I hereby designate the Law Offices of Chasid Sapolu and Public Safety Labor Group as legal counsel to represent me for all purposes in this action.



7E75338354E0439...
Signature

Robert M. Hayslip

Printed Name

robslip11@gmail.com

Email Address

4/23/2022

DATE

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.)

<p>I. (a) PLAINTIFFS ROBERT M. HAYSLIP, on behalf of himself and other similarly situated individuals,</p> <p>(b) County of Residence of First Listed Plaintiff <u>Honolulu</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) Sapolu Law Office 500 Ala Moana Blvd, Ste 7400. Honolulu, HI, 96813 (808) 466-1520</p>	<p>DEFENDANTS CITY AND COUNTY OF HONOLULU</p> <p>County of Residence of First Listed Defendant <u>Honolulu</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known) Ernest Nomura 530 S. King St, Rm. 110. Honolulu, HI, 96813 (808) 768-5120</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" 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
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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)

<p>CONTRACT</p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p>TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p>FORFEITURE/PENALTY</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p>LABOR</p> <p><input checked="" type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Employee Retirement Income Security Act</p> <p>IMMIGRATION</p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p>BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>	<p>OTHER STATUTES</p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>
<p>REAL PROPERTY</p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p>	<p>CIVIL RIGHTS</p> <p><input type="checkbox"/> 440 Other Civil Rights</p> <p><input type="checkbox"/> 441 Voting</p> <p><input type="checkbox"/> 442 Employment</p> <p><input type="checkbox"/> 443 Housing/Accommodations</p> <p><input type="checkbox"/> 445 Amer. w/Disabilities - Employment</p> <p><input type="checkbox"/> 446 Amer. w/Disabilities - Other</p> <p><input type="checkbox"/> 448 Education</p>	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <p><input type="checkbox"/> 463 Alien Detainee</p> <p><input type="checkbox"/> 510 Motions to Vacate Sentence</p> <p><input type="checkbox"/> 530 General</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p>Other:</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p> <p><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement</p>		

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):
29 USC 201 et seq

Brief description of cause:
Failure to Pay FLSA Overtime

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE: 09/14/2022 SIGNATURE OF ATTORNEY OF RECORD: /s/ CHASID M. SAPOLU

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

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