

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No.:

KIT SKINNER,  
JESSICA MILES, and  
RYAN HOFFMAN

Plaintiffs,

v.

CITY OF GRAND JUNCTION, a  
Colorado Municipal Corporation

Defendant.

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**COMPLAINT FOR UNPAID WAGES**

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Plaintiffs Kit Skinner, Jessica Miles and Ryan Hoffman, by and through their undersigned counsel, respectfully file this Complaint for Unpaid Wages against the above-named Defendant.

**STATEMENT OF THE CASE**

1. The Plaintiffs are employed by the City of Grand Junction, Colorado (“City”).
2. Throughout the time period between June 21, 2020 and February 5, 2023 (“relevant time period”) the City employed the Plaintiffs as Emergency Medical Technicians (“EMT’s”).

3. Throughout the relevant time period, the City misclassified the Plaintiffs and other EMT's as "employee[s] in fire protection activities" eligible for a partial exemption from the overtime requirements of the Fair Labor Standards Act. 29 U.S.C. § 207(k).

4. The Plaintiffs were not in fact employed in "fire protection activities" and were therefore entitled to the overtime protections of the Fair Labor Standards Act. 29 U.S.C. § 203(y).

5. The City failed to pay the Plaintiffs required overtime wages for all overtime hours worked during the relevant time period.

6. Defendant's conduct violated the Fair Labor Standards Act (the "FLSA"), 29 U.S.C. §§ 201*et seq.*

#### **PARTIES, JURISDICTION, AND VENUE**

7. The Defendant City has employed Plaintiff Kit Skinner since approximately December of 2008. Plaintiff Skinner's signed FLSA Consent to Sue Form is attached to this Complaint as Exhibit 1.

8. The Defendant City has employed Plaintiff Jessica Miles since approximately May of 2017. Plaintiff Miles' signed FLSA Consent to Sue Form is attached to this Complaint as Exhibit 2.

9. The Defendant City has employed Plaintiff Ryan Hoffman since approximately January of 2008. Plaintiff Hoffman's signed FLSA Consent to Sue Form is attached to this Complaint as Exhibit 3.

10. Defendant, The City of Grand Junction, is a home rule city and municipal

corporation pursuant to the Colorado Constitution, Article XX, section 6, and is located in Mesa County in the State of Colorado.

11. Jurisdiction is conferred upon this Court by 28 U.S.C. § 1331, this case arising under the laws of the United States. This action arises under the FLSA, 29 U.S.C. §§ 201 *et seq.*

12. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) because all the events and omissions giving rise to the claims occurred in the District of Colorado.

### **FACTUAL ALLEGATIONS**

13. Defendant employed the Plaintiffs as EMTs throughout the time period from June 21, 2020 through February 5, 2023.

14. Defendant scheduled, directed and controlled the Plaintiffs' work.

15. Plaintiffs' primary job duty was to provide emergency medical services.

16. Defendant did not require the Plaintiffs to maintain fire certifications during the relevant time period.

17. Defendant prohibited the Plaintiffs from engaging in fire suppression activity during the relevant time period.

18. The Plaintiffs never engaged in fire suppression activities during the relevant time period.

19. Fire suppression was not within the Plaintiffs' job duties during the relevant time period.

20. The Plaintiffs did not have a responsibility to engage in fire suppression during the relevant time period.

21. Throughout their employment, the Plaintiffs regularly worked a weekly schedule in excess of 40 hours per week for Defendant.

22. For example, in the workweek running from July 18, 2021 through July 24, 2021, Plaintiff Skinner worked 72 hours. He was not paid required overtime premiums of one and one-half times his regular rate of pay for all of the 32 overtime hours he worked that week.

23. For example, in the workweek running from June 27, 2021 through July 3, 2021, Plaintiff Miles worked 72 hours. She was not paid required overtime premiums of one and one-half times her regular rate of pay for all of the 32 overtime hours she worked that week.

24. For example, in the workweek running from January 22, 2023 through February 4, 2023, Plaintiff Hoffman worked 72 hours. He was not paid required overtime premiums of one and one-half times his regular rate of pay for all of the 32 overtime hours he worked that week.

25. Though Plaintiffs regularly worked more than 40 hours each workweek, Defendant failed to pay them overtime premiums for all overtime hours worked during the relevant time period.

26. Throughout the relevant time period, the City misclassified the Plaintiffs and other EMT's as "employee[s] in fire protection activities" eligible for a partial exemption from the overtime requirements of the Fair Labor Standards Act. 29 U.S.C. § 207(k).

27. The Plaintiffs were not in fact employed in "fire protection activities" and were therefore entitled to the overtime protections of the Fair Labor Standards Act. 29 U.S.C. § 203(y).

28. Beginning on February 5, 2023, the Defendant City recognized the Plaintiffs as non-exempt employees entitled to overtime premiums for hours worked in excess of 40 in a given workweek and began to pay them accordingly.

29. There was no material change in the substance of the Plaintiffs' work attendant their February 2023 reclassification. Their work duties remained as they had been throughout the June 21, 2020 through February 5, 2023 time period at issue in this case.

### **CLAIMS FOR RELIEF**

#### **COUNT I – Failure to Pay Overtime Wages Violation of the FLSA (29 U.S.C. § 201 *et seq.*)**

30. Throughout the relevant time period, Defendant employed the Plaintiffs as EMT's.

31. The Defendant City is a "public agency" as that term is defined at 29 U.S.C. § 203(e)(2).

32. The Defendant City is a political subdivision of the State of Colorado. C.R.S. §§ 29-1-202(2), 29-1-901(2).

33. Throughout the relevant time period, Plaintiffs were Defendant's "employees" as that term is defined by 29 U.S.C. § 203(e)(2)(C).

34. Defendant "employed" the Plaintiffs as that term is defined by the FLSA. 29 U.S.C. § 203(g)

35. Defendant was Plaintiffs' "employer" as that term is defined by the FLSA. 29 U.S.C. § 203(d).

36. Defendant violated the FLSA when it failed to pay the Plaintiffs overtime

premiums for all hours worked beyond forty in each given workweek. 29 U.S.C. § 207.

37. Defendant's violations of the FLSA were willful. 29 U.S.C. § 255(a).

38. Plaintiffs have suffered lost wages and lost use of those wages in an amount to be determined at trial.

39. Plaintiffs are entitled to recover unpaid wages, overtime premiums, liquidated damages, attorney's fees and costs. 29 U.S.C. § 216(b).

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs pray that:

As to their Count I claim brought under the FLSA, Plaintiffs respectfully request an Order from the Court that:

- a. Plaintiffs be awarded unpaid overtime wages;
- b. Plaintiffs be awarded liquidated damages as required by law;
- c. Plaintiffs be awarded costs and attorney fees per 29 U.S.C. § 216(b); and
- d. Plaintiffs be awarded such other and further relief as may be necessary and appropriate.

Respectfully Submitted,

**/s/ Andrew H. Turner**

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***Counsel for Plaintiffs***

JS 44 (Rev. 10/20) District of Colorado

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

KIT SKINNER, JESSICA MILES and RYAN HOFFMAN

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

Andrew H. Turner, Milstein Turner, PLLC, 1490 Lafayette St. #304 Denver, CO 80218 Tel: (303) 305-8230

DEFENDANTS

CITY OF GRAND JUNCTION, a Colorado Municipal Corporation

County of Residence of First Listed Defendant Mesa (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, 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, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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

Click here for: Nature of Suit Code Descriptions.

Table with 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 and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Fair Labor Standards Act, 29 U.S.C. 201, et. seq.

Brief description of cause: Failure to Pay Overtime Wages

AP Docket

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

June 21, 2023

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE





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:

**FLSA CONSENT FORM**

I hereby give my consent to sue for wages and damages that may be owed to me under the Fair Labor Standards Act. I hereby authorize my attorneys to represent me before any court or agency on these claims.

Kit SKINNER  
NAME

  
SIGNATURE

5-14-23  
DATE

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**CONSENTIMIENTO PARA ACCIÓN FLSA**

Por este medido, doy mi consentimiento para que se haga demanda para pagos y multas que se me deben bajo la ley de normas laborales justas. Autorizo que mis abogados me representen ante cualquier corte o agencia tocante estos reclamos.

\_\_\_\_\_  
NOMBRE

\_\_\_\_\_  
FIRMA

\_\_\_\_\_  
FECHA

**FLSA CONSENT FORM**

I hereby give my consent to sue for wages and damages that may be owed to me under the Fair Labor Standards Act. I hereby authorize my attorneys to represent me before any court or agency on these claims.

Jessica Miles  
NAME

Jessica Miles  
SIGNATURE

05/30/23  
DATE

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**CONSENTIMIENTO PARA ACCIÓN FLSA**

Por este medido, doy mi consentimiento para que se haga demanda para pagos y multas que se me deben bajo la ley de normas laborales justas. Autorizo que mis abogados me representen ante cualquier corte o agencia tocante estos reclamos.

\_\_\_\_\_  
NOMBRE

\_\_\_\_\_  
FIRMA

\_\_\_\_\_  
FECHA

**FLSA CONSENT FORM**

I hereby give my consent to sue for wages and damages that may be owed to me under the Fair Labor Standards Act. I hereby authorize my attorneys to represent me before any court or agency on these claims.

Ryan Heiman  
NAME

[Signature]  
SIGNATURE

05/17/23  
DATE

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**CONSENTIMIENTO PARA ACCIÓN FLSA**

Por este medido, doy mi consentimiento para que se haga demanda para pagos y multas que se me deben bajo la ley de normas laborales justas. Autorizo que mis abogados me representen ante cualquier corte o agencia tocante estos reclamos.

\_\_\_\_\_  
NOMBRE

\_\_\_\_\_  
FIRMA

\_\_\_\_\_  
FECHA