

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO**

Nathaniel Dagley, individually and on behalf
of all others similarly situated,

Plaintiff,

Civ. No.: _____

v.

American Medical Response, Inc.

Defendant.

COLLECTIVE ACTION COMPLAINT

Nathaniel Dagley (“Plaintiff”), individually and on behalf of others similarly situated, brings this Complaint against American Medical Response, Inc.

PRELIMINARY STATEMENT

1. This is a putative collective action brought by Plaintiff on behalf of himself and all others similarly situated. Plaintiff, and others similarly situated, worked for Defendant as paramedics and emergency medical technicians (EMTs), and were denied wages required by federal wage and hour laws.

2. Plaintiff and other similarly situated paramedics and EMTs were hired by third party companies like Med Transport Inc. and others to work for Defendant on its assignments also known as “deployments.”

3. Plaintiff and others similarly situated paramedics and EMTs were misclassified as independent contractors. Defendant failed to pay them one and one-half times their regular rate of pay for all hours worked over 40 in a workweek as required by federal law.

4. Plaintiff seeks overtime compensation for hours worked over 40 in a workweek pursuant to Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.* In accordance with § 216(b) of the FLSA, Plaintiff brings this case as a putative collective action.

JURISDICTION AND VENUE

5. This Court has original jurisdiction to hear this Complaint and to adjudicate the claims stated herein under 28 U.S.C. § 1331, this action being brought under the FLSA, 29 U.S.C. § 201, *et seq.*

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1) because Defendant resides in this District.

THE PARTIES

7. Defendant American Medical Response, Inc. (“AMR” or “Defendant”) is a foreign corporation with its principal place of business located at 636 South Fiddlers Green Circle, Suite 1400, Greenwood, Colorado 80111.

8. AMR is the nation’s largest provider of ground medical transportation and the Federal Emergency Management Agency’s (FEMA) prime emergency medical service response provider.

9. AMR contracts with FEMA to provide ground ambulance, air ambulance, paratransit services and non-ambulance emergency medical services (“EMS”) personnel to supplement federal and military response to a disaster, an act of terrorism, or any other public health emergency.

10. AMR contracts with third-party companies like Med Transport Inc. and others to build rosters of EMS personnel to work at its deployment sites.

11. Plaintiff is a resident of Webb City, Missouri. He worked as a paramedic for Defendant from approximately May 2019 to October 2022 at its deployment sites located throughout the United States, including in California, New Jersey, Nevada, Oregon, Arizona, Florida, Louisiana, and North Carolina.

COVERAGE UNDER THE FLSA

12. AMR has an annual gross volume of sales made or business done of \$500,000 or greater in accordance with 29 U.S.C. § 203(s)(1)(A)(ii).

13. Defendant operates in interstate commerce by, among other things, offering and providing its services in multiple states across the country.

14. At all material times, Plaintiff and other paramedics and EMTs were engaged in commerce as defined by 29 U.S.C. § 207(a)(1).

15. At all material times, Plaintiff and others similarly situated were qualified as employees under the FLSA, 29 U.S.C. § 203(e)(1).

16. Defendant was or is Plaintiff's and the similarly situated individuals' "employer" within the meaning of the FLSA, 29 U.S.C. § 203(d).

17. Plaintiff and the similarly situated paramedics and EMTs were employees entitled to the FLSA's protections. They allege that Defendant's uniform practice of misclassifying paramedics and EMTs as independent contractors and paying no overtime premium for overtime hours worked, deprives Plaintiff and those similarly situated of overtime compensation in violation of the FLSA.

COLLECTIVE ACTION DEFINITION

18. Plaintiff files this action on behalf of himself and all other similarly situated individuals. The putative FLSA Collective is defined as follows:

All paramedics and emergency medical technicians (EMTs) who worked for Defendant at any time since three years prior to the filing of this Complaint through judgment.

GENERAL FACTUAL ALLEGATIONS

19. Defendant provides medical transport and support to natural disasters and emergencies throughout the United States. It also partners with EMS agencies throughout the United States to help with responses for aide.

20. Plaintiff and those similarly situated worked for Defendant, providing medical transportation and support on deployments which included hurricanes, wildfires, the COVID-19 pandemic, and other emergencies and natural disasters.

21. Plaintiff and the proposed FLSA Collective were required to work a minimum amount of time on each deployment. While deployed, Plaintiff and the proposed FLSA Collective worked exclusively for Defendant on a continuing basis. Plaintiff and those similarly situated did not sell or advertise their services to the general public or work for any other company other than Defendant.

22. Defendant misclassified Plaintiff and others similarly situated as independent contractors.

23. Defendant avoided paying overtime premiums, reduced its tax liability and avoided paying workers' compensation by classifying Plaintiff and other paramedics and EMTs as independent contractors.

24. Defendant subjected Plaintiff and the proposed FLSA Collective to its direction and control, including the manner in which they performed their work. For example:

A. Defendant dictated the minimum number of days Plaintiff was expected to work on each deployment.

B. Plaintiff and those similarly situated reported to AMR's task force leader who communicated Plaintiff's daily work schedule, expectations, and details with respect to the work being performed.

C. AMR's task force leaders, oversaw a group of emergency support personnel at each deployment site, answered questions, addressed concerns, and performed other supervisory functions.

D. Defendant required Plaintiff to report his work hours each day.

E. Through its contract with FEMA and other agencies, Defendant determined Plaintiff's manner and rate of pay. Plaintiff was paid a flat daily rate for each day he worked. Plaintiff was not able to negotiate his pay rate,

F. Defendant dispatched, tracked, and communicated with Plaintiff and those similarly situated using its own mobile satellite communications network.

G. Defendant provided housing/lodging (typically a hotel room in which Defendant assigned Plaintiff a roommate), meals, and reimbursed Plaintiff and those similarly situated for any additional expenses they incurred in conjunction with their work.

H. Defendant provided the supplies and equipment necessary for Plaintiff and those similarly situated to complete their work. This included but was not limited to medical supplies, medications, ambulances (with specific fueling stations), and other equipment provided on an on-demand basis as needed.

I. Defendant required Plaintiff and the similarly situated paramedics and EMTs to follow Defendant's instructions, processes, and policies regarding the method by which their work was to be completed.

J. Defendant required paramedics and EMTs to obtain specific certifications to

perform work at Defendant's work sites.

K. Defendant required Plaintiff and those similarly situated to track the work they completed each day and to submit reports outlining that work.

L. Plaintiff and those similarly situated were/are not in business for themselves; rather, they were/are integral to Defendant's business.

25. Plaintiff routinely worked more than 40 hours in a workweek for Defendant. For example, during the workweek beginning January 2, 2022, he worked approximately 80 hours. Defendant did not compensate him with an overtime premium during this workweek, or in any other workweeks.

26. Defendant did not pay Plaintiff or others similarly situated an overtime premium for the overtime hours they worked. Defendant is aware that some of its paramedics and EMTs routinely worked over 40 hours per week and were not paid overtime because Defendant scheduled them and required them to complete shifts that resulted in overtime.

27. Defendant is aware of the hours its paramedics and EMTs worked because it required them to submit their hours on an ICS (Incident Command System) form each day/shift, and/or report their hours via phone in Defendant's call-in system (NATCOM).

COLLECTIVE ACTION ALLEGATIONS

28. Plaintiff realleges and incorporates by reference all allegations in all preceding paragraphs.

29. Pursuant to the FLSA, 29 U.S.C. § 216(b), Plaintiff brings Count I individually and on behalf and all similarly situated individuals.

30. Plaintiff consents in writing to be a party to this FLSA action pursuant to 29 U.S.C. § 216(b). Plaintiff's Consent Form is attached as Exhibit A. As this case proceeds, it is likely other individuals will sign consent forms and join as plaintiffs.

31. Pursuant to the FLSA, 29 U.S.C. § 207, employers are generally required to pay overtime compensation to non-exempt employees for hours worked over forty (40) in a workweek.

32. Defendant engaged in a pattern and practice of violating the FLSA by misclassifying Plaintiff and all similarly situated individuals as independent contractors, and failing to pay its paramedics and EMTs overtime compensation as required by law.

33. Defendant knowingly, willfully, or in reckless disregard of the law, maintained an illegal practice of failing to pay Plaintiff and those similarly situated proper overtime compensation for all hours worked over forty (40).

34. For example, Defendant's workforce consists of both paramedics and EMTs who are classified as independent contractors and others who work as paramedic and EMTs performing the same or similar work who are classified as W-2 employees. Defendant treats both the same or similarly regardless of their classification.

**COUNT I – VIOLATION OF THE FAIR LABOR STANDARDS ACT FOR
FAILURE TO PAY OVERTIME COMPENSATION**

29 U.S.C. § 201, *et seq.*

On Behalf of Plaintiff and the FLSA Collective

35. Plaintiff realleges and incorporates by reference all allegations in all preceding paragraphs.

36. The FLSA, 29 U.S.C. § 207, requires employers to pay non-exempt employees an overtime premium for all hours worked over forty (40) per workweek.

37. Defendant suffered and permitted Plaintiff and the FLSA Collective to routinely work more than forty (40) hours in a workweek without proper overtime compensation as required by the FLSA, 29 U.S.C. § 201 *et seq.*

38. Defendant knew or showed reckless disregard for the fact that it failed to pay these individuals overtime compensation, constituting a willful violation of the FLSA.

39. Defendant's failure to comply with the FLSA overtime protections caused Plaintiff and the FLSA Collective to suffer loss of wages and interest thereon.

40. Plaintiff and the FLSA Collective are entitled to unpaid overtime, liquidated damages, and attorney's fees and costs under the FLSA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and the proposed FLSA Collective, prays for relief as follows:

1. Court-authorized notice and certification of a collective action under § 216(b) of the FLSA;
2. Judgment against Defendant for violating federal overtime law;
3. Judgment against Defendant for an amount equal to Plaintiff's and the FLSA Collective's overtime wages due and owing and liquidated damages;
4. Judgment that Defendant's violations were willful and/or not in good faith;
5. An award of any pre- and post-judgment interest;
6. An award of reasonable attorneys' fees and costs;
7. Leave to add additional plaintiffs and/or state law claims by motion, the filing of written consent forms, or any other method approved by the Court; and
8. Such further relief as may be appropriate.

Date: June 30, 2023

NICHOLS KASTER, PLLP

By: s/Rachhana T. Srey

Rachhana T. Srey, MN Bar No. 340133

4700 IDS Center

80 S. 8th Street

Minneapolis, Minnesota 55402

Telephone: (612) 256-3200

Facsimile: (612) 338-4878

srey@nka.com

**Attorneys for Plaintiff and the putative FLSA
Collective**

EXHIBIT A

**AMERICAN MEDICAL RESPONSE, INC.
PLAINTIFF CONSENT FORM**

1. I consent to make a claim under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* against American Medical Response, Inc. (AMR) (“Defendant”) and any other related entities or affiliates, to recover overtime pay.
2. During the past three years, there were times when I worked over 40 hours per week for Defendant as a paramedic or emergency medical technician (EMT) and did not receive proper overtime compensation for the overtime hours I worked.
3. If this case does not proceed collectively, then I also consent to join any subsequent action to assert these claims against Defendant, and any other related entities or affiliates.

Date: 06/04/2023



Signature

Nathaniel Dagley

Print Name

**Return this form by
fax, email, or mail to:**

Nichols Kaster, PLLP, Attn: Rachhana T. Srey

Fax: (612) 215-6870

Email: forms@nka.com

Address: 4700 IDS Center, 80 S. 8th Street, Minneapolis, MN 55402

Web: www.nka.com

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

UNITED STATES DISTRICT COURT

for the

District of Colorado

Nathaniel Dagley, individually and on behalf of all others similarly situated

Plaintiff(s)

v.

American Medical Response, Inc.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) American Medical Response, Inc. c/o Corporation Service Company 1900 W Littleton Blvd Littleton, CO 80120

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Rachhana T. Srey Nichols Kaster, PLLP 4700 IDS Center 80 South Eighth Street Minneapolis, MN 55402

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

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:

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
Nathaniel Dagley, individually and on behalf of all others similarly situated
(b) County of Residence of First Listed Plaintiff Jasper County
(c) Attorneys (Firm Name, Address, and Telephone Number) Nichols Kaster, PLLP

DEFENDANTS
American Medical Response, Inc.
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

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)
PTF DEF
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country

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, Labor Standards, 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):
29 U.S.C. § 201 et seq. and 29 U.S.C. § 216(b)
Brief description of cause: Failure to pay minimum wage and overtime wages

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ >\$75,000
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

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

DATE June 30, 2023 SIGNATURE OF ATTORNEY OF RECORD /s/Rachhana T. Srey

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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; **OR "AP Docket."**
- 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.