

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
(BALTIMORE DIVISION)**

**GEORGE K BRANIECKI**  
309 William Way  
Stevensville, Maryland 21666

*Individually and on Behalf of  
All Others Similarly Situated,*

**Plaintiff,**

**v.**

**CASE NO.**

**BERLIN FIRE COMPANY, INC.**  
214 North Main Street  
Berlin, Maryland 21811

**SERVE: David A Fitzgerald**  
214 North Main Street  
Berlin, Maryland 21811

**Defendant.**

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**COLLECTIVE AND CLASS ACTION COMPLAINT**

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1. This is a collective and class action brought by Plaintiff George K Braniecki (“Plaintiff”), individually and on behalf of the members of the proposed classes identified below.
2. During the statutory recovery period June 28, 2021, through the approximately March 2023 (“the relevant period”), Defendant Berlin Fire Company, Inc. (“Defendant”) employed Plaintiff and approximately twenty-five (25) or more similarly situated individuals (“the Class Members”) as firefighters performing firefighter employment duties within Worcester County, Maryland, and surrounding counties and metropolitan areas.

3. During the relevant period, Defendant uniformly misclassified Plaintiff and the Class Members as subject to the limited overtime exemption set forth in Federal Fair Labor Standards Act (“FLSA”) Section 207(k), under which Defendant paid Plaintiff and the Class Members at the time-and-one-half overtime rate only for overtime worked exceeding Two Hundred Twelve (212) hours during Twenty Eight (28) day period, and, in so doing, failed to pay Plaintiff and the Class Members FLSA and Maryland required overtime premium wages for all overtime Plaintiff and the Class Members worked exceeding Forty (40) hours per week.

**PARTIES, JURISDICTION, AND VENUE**

4. Plaintiff is an adult resident and domiciliary of Queen Anne’s County, Maryland.

5. By acting as the named Plaintiff and affixing his name to the caption in this pleading, Plaintiff has provided this Court with his written consent confirming his intent to prosecute his claims and the claims of other similarly situated individuals against Defendant for unpaid wages and damages under the FLSA and Maryland law for recovery of unpaid wages and damages.

6. Defendant is a corporation, formed under the laws of the State of Maryland, with its principal place of business in Worcester County, Maryland.

7. At no time during the relevant period did Defendant operate as a Public Agency.

8. At all times during the relevant period, in the course of Plaintiff and the Class Members’ performance of employment duties for Defendant, Plaintiff and the Class Members responded to emergencies on state roads and interstate highways over which commerce between the States flows, and by so doing, helped enable commerce to move freely.

9. In each year of the relevant period, Defendant realized annual total gross revenues, primarily from government grants and/or funding and private fundraising, exceeding \$500,000.00.

10. During the relevant period, Defendant qualified as Plaintiff and the Class Members' "employer," within the meaning of the FLSA, the Maryland Wage Hour Law ("MWHL"), and the Maryland Wage Payment Collection Law ("MWPCL").

11. This Court has subject matter jurisdiction to hear this complaint and to adjudicate the claims stated herein under 28 U.S.C. §1331, because this action is brought under the laws of the United States, the FLSA, 29 U.S.C. §201, *et seq.*

12. The Court has supplemental jurisdiction over Maryland state law claims pursuant to 28 U.S.C. §1367, as these claims are so related to the Federal claims in this action that they form part of the same case or controversy under Article III of the United States Constitution.

13. Venue is proper pursuant to 28 U.S.C. §1391(b) and (c) in the United States District Court for the District of Maryland, Baltimore Division, because the acts and omissions giving rise to the claims at bar occurred within Worcester County, Maryland, and Defendant had substantial, systematic, and ongoing contacts within Worcester County, Maryland, within the relevant period.

### **CLASS DEFINITIONS**

14. Plaintiff brings this action on behalf of himself and the Class Members for recovery of earned and unpaid overtime compensation under the FLSA, 29 U.S.C. § 216(b).

15. The FLSA Overtime Class is defined as follows:

All persons employed by Defendant as firefighters during the period June 28, 2021, through March 2023, who, in any week during this period, worked overtime exceeding Forty (40) hours for which Defendant failed to pay that person FLSA required overtime premium wages at the FLSA required rate of one-and-one-half times that person's regular hourly rate for each such overtime hour or fraction thereof worked (hereafter, "the FLSA Overtime Class").

16. Plaintiff brings this action on behalf of himself and the Class Members for recovery of earned and unpaid Maryland-required overtime premium wages under the MWHL and MWPCCL pursuant to FED. R. CIV. P. 23. The MWHL and MWPCCL sub-classes are defined as follows:

All persons employed by Defendant as firefighters wholly or partially within the State of Maryland during the period June 28, 2021, through March 2023, who, in any week during this period, worked overtime exceeding Forty (40) hours for which Defendant failed to pay that person Maryland-required overtime premium wages at the Maryland-required rate of one-and-one-half times that person's regular hourly rate for each such overtime hour or fraction thereof worked (hereafter, "the Maryland Classes").

17. The FLSA Overtime Class and the Maryland Classes and/or sub-classes are herein collectively referred to as the "the Classes."

### **ALLEGATIONS**

18. During the relevant period, Defendant employed Plaintiff as a firefighter to perform firefighter employment duties within Worcester County, Maryland, and surrounding counties and metropolitan areas.

19. During the relevant period, Defendant employed approximately Twenty-Five (25) or more firefighters to perform firefighter employment duties within Worcester County, Maryland, and surrounding counties and metropolitan areas.

20. During the relevant period, Defendant paid Plaintiff as an hourly employee, at an hourly rate slightly higher than Forty Dollars (\$40.00) per hour.

21. During the relevant period, Defendant paid each Class Member as an hourly employee.

22. During the relevant period, the exact number of hours Plaintiff worked varied from week to week.

23. During the relevant period, the exact number of hours each Class Member worked varied from week to week.

24. During the relevant period, Defendant tracked, recorded, and had actual knowledge of all compensable work hours Plaintiff worked each week.

25. During the relevant period, Defendant tracked, recorded, and had actual knowledge of all compensable work hours each Class Member worked each week.

26. During the relevant period, Plaintiff regularly and customarily worked more than Forty (40) hours per week.

27. During the relevant period, the Class Members regularly and customarily worked more than Forty (40) hours per week.

28. During the relevant period, Defendant had actual knowledge or, at least, suffered or permitted Plaintiff to regularly and customarily work more than Forty (40) hours per week.

29. During the relevant period, Defendant had actual knowledge or, at least, suffered or permitted the Class Members to regularly and customarily work more than Forty (40) hours per week.

30. During the relevant period, Defendant misclassified Plaintiff as subject to the limited overtime exemption set forth in FLSA Section 207(k), under which Defendant paid Plaintiff at the time-and-one-half overtime rate only for overtime Plaintiff worked exceeding Two Hundred Twelve (212) hours during Twenty Eight (28) day periods, and, in so doing, failed to pay Plaintiff FLSA and Maryland required earned wages at the rate of one and one-half times Plaintiff's regular hourly rate for all overtime Plaintiff worked exceeding Forty (40) hours per week.

31. During the relevant period, Defendant misclassified each Class Member as subject to the limited overtime exemption set forth in FLSA Section 207(k), under which Defendant paid each Class Member at the time-and-one-half overtime rate only for overtime each Class Member worked exceeding Two Hundred Twelve (212) hours during Twenty Eight (28) day periods, and, in so doing, failed to pay each Class Member FLSA and Maryland required earned wages at the rate of one and one-half times each Class Member's regular hourly rate for all overtime each Class Member worked exceeding Forty (40) hours per week.

32. During the relevant period, Defendant failed to fully and timely pay Plaintiff all earned wages due each pay period for all overtime worked exceeding Forty (40) hours per week.

33. During the relevant period, Defendant failed to fully and timely pay each Class Member all earned wages due each pay period for all overtime worked exceeding Forty (40) hours per week.

34. On information and belief, prior to or during the relevant period, Defendant learned that it had and/or continued to misclassify Plaintiff and the Class Members as subject to the limited overtime exemption set forth in FLSA Section 207(k), and in so learning, knew or reasonably s have known the rate and method by which Defendant was or continued to pay Plaintiff and the Class Members for overtime worked exceeding Forty (40) hours per week was in direct violation the FLSA and Maryland overtime compensation requirements, and that its past or ongoing failure to pay Plaintiff and the Class Members at the FLSA and Maryland law constituted a past and ongoing unlawful withholding of Plaintiff and the Class Members' earned wages in violation of the FLSA and Maryland law.

35. On information and belief, Defendant's failure to fully and timely pay Plaintiff earned wages each pay period for all overtime worked exceeding Forty (40) hours per week was perpetrated willfully and knowingly and was not the product of good faith mistake or a *bona fide* dispute.

**COLLECTIVE ACTION ALLEGATIONS UNDER THE FLSA**

36. During the relevant period, Defendant suffered or permitted Plaintiff and the members of the FLSA Overtime Class to work overtime exceeding Forty (40) hours per week, for which, Defendant failed to pay Plaintiff and the members of the FLSA Overtime Class for all overtime worked exceeding Forty (40) hours per week at the FLSA required overtime premium rate of one-and-one-half times Plaintiff and each Class Member's regular hourly rate.

37. Defendant is now commonly liable to Plaintiff and the members of the FLSA Overtime Class for (i) earned and unpaid FLSA required overtime premium wages due and owing to Plaintiff and the Class Members for overtime work Plaintiff and the members of the Overtime Class performed during the relevant period exceeding Forty (40) hours per week; (ii) statutory liquidated damages in an equal amount; and (iii) attorney's fees and costs.

**RULE 23 CLASS ALLEGATIONS - MARYLAND**

38. Plaintiff brings his MWHL and MWPCL state law claims in MWHL and MWPCL sub-classes under FED. R. CIV. P. 23 on behalf of the Maryland Classes for violations occurring during the relevant period.

39. The members of the MWHL and MWPCL sub-classes of the Maryland Classes are readily ascertainable from records in Defendant's possession, custody, or control.

40. The MWHL and MWPCL sub-classes of the Maryland Classes are each so numerous that joinder of all members is impracticable, and more importantly the disposition of their claims as a class will benefit the parties and the Court. Although the precise number of such persons is unknown, and the facts on which the calculation of that number are presently within Defendant's sole custody control, upon information and belief, there are at least Twenty-Five (25) or more members in the MWHL and MWPCL sub-classes Maryland Classes.

41. The claims of the members of the MWHL and MWPCL sub-classes against Defendant arise from Defendant's common and class-wide failure to pay Plaintiff and the members of the Maryland Classes full and timely wages each pay period for overtime work Plaintiff and the members of the Maryland Classes performed during the relevant period exceeding Forty (40) hours per week at the Maryland-required rate of one-and-one-half times Plaintiff and the members of the Maryland Classes' regular hourly rate.

42. Plaintiff's MWHL and MWPCL claims are typical of those claims which could be alleged by any member of the MWHL or MWPCL sub-class of the Maryland Classes and the relief sought is typical of the relief which would be sought by each member of the MWHL and MWPCL sub-classes of the Maryland Classes in separate actions.

43. Plaintiff and the members of the MWHL and MWPCL sub-classes of the Maryland Classes sustained similar losses, injuries and damages arising from the same unlawful policies, practices and procedures perpetrated by Defendants during the relevant period in violation of the MWHL and the MWPCL.

44. Plaintiff and Plaintiff's counsel can fairly and adequately protect the interests of the Maryland Classes and have no interests antagonistic to the members of the members of the MWHL or MWPCL sub-classes of the Maryland Classes.



45. There are questions of fact and law common to the MWHL and MWPCCL claims belonging to Plaintiff and the members of the MWPCCL and MWPCCL sub-classes of the Maryland Classes that predominate over any questions affecting only individual members, such as:

- a) Whether Defendant violated the MWHL and the MWPCCL by failing to pay Plaintiff and the members of the Maryland Classes full and timely wages each pay period for overtime work Plaintiff and the members of the Maryland Classes performed during the relevant period exceeding Forty (40) hours per week at the Maryland-required rate of one-and-one-half times Plaintiff and the members of the Maryland Classes' regular hourly rate; and
- b) Whether Defendant's violations of the MWHL and the MWPCCL were willful, intentional, the product of good faith, or arose from a *bona fide* dispute by or between Defendant and Plaintiff and the members of the Maryland Classes.

46. A class action divided into MWHL and MWPCCL sub-classes is superior to other available methods for the fair and efficient adjudication of the controversy, particularly in the context of wage and hour litigation where individual plaintiffs bringing claims under the MWHL and/or MWPCCL lack the financial resources to vigorously prosecute separate lawsuits in Federal Court, particularly those with relatively small claims.

47. The questions set forth above related to the MWHL and MWPCCL claims by Plaintiff and the members of the MWHL and MWPCCL sub-classes of the Maryland Classes predominate over any questions affecting only individual persons, and a class action divided into MWHL and MWPCCL sub-classes promotes consistency, economy, efficiency, fairness and equity, to other available methods for the fair and efficient adjudication of the claims.

**COUNT I**  
**FLSA**

48. Plaintiff, on behalf of himself and the FLSA Overtime Class, reasserts and incorporates by reference all paragraphs set forth above as if restated herein.

49. During the relevant period, Defendant qualified Plaintiff and the members of the FLSA Overtime Class's employer.

50. As a result of the above alleged practices, during the relevant period, Defendant violated the FLSA by failing to compensate Plaintiff and the members of the FLSA Overtime Class for all overtime Plaintiff and the members of the FLSA Overtime Class worked exceeding Forty (40) hours per week at the FLSA required time-and-one-half overtime premium rate.

51. Defendant now owes Plaintiff and each member of the FLSA Overtime Class earned and unpaid overtime premium wages for overtime Plaintiff and each member of the FLSA Overtime Class worked exceeding Forty (40) hours per week during the relevant period.

52. On information and belief, prior to and during the relevant period, Defendant had actual and/or constructive knowledge that the rate and method by which Defendant paid Plaintiff and the members of the FLSA Overtime Class for overtime worked exceeding Forty (40) hours per week during the relevant period was in direct violation of the FLSA overtime compensation requirements.

53. On information and belief, Defendant's failure to compensate Plaintiff and the FLSA Overtime Class during the relevant period as required by the FLSA was willfully perpetrated and was not the product of good faith on the part of Defendant.

**COUNT II**  
**MWHL**

54. Plaintiff, on behalf of himself and the members of the MWHL sub-class of the Maryland Classes, re-alleges and incorporates all previous paragraphs as if they were set forth herein.

55. During the relevant period, Defendant qualified Plaintiff and the members of the MWHL sub-class of the Maryland Classes' employer under the MWHL.

56. As a result of the above alleged practices, during the relevant period, Defendant violated the MWHL by failing to compensate Plaintiff and the members of the MWHL sub-class of the Maryland Classes for all overtime Plaintiff and the members of the MWHL sub-class of the Maryland Classes worked exceeding Forty (40) hours per week at the Maryland required time-and-one-half overtime premium rate.

57. Defendant now owes Plaintiff and each member of the MWHL sub-class of the Maryland Classes earned and unpaid overtime premium wages for overtime Plaintiff and each member of the MWHL sub-class of the Maryland Classes worked exceeding Forty (40) hours per week during the relevant period.

58. On information and belief, prior to and during the relevant period, Defendant had actual and/or constructive knowledge that the rate and method by which Defendant paid Plaintiff and the members of the MWHL sub-class of the Maryland Classes for overtime worked exceeding Forty (40) hours per week during the relevant period was in direct violation of the Maryland overtime compensation requirements.

59. On information and belief, Defendant's failure to compensate Plaintiff and the MWHL sub-class of the Maryland Classes during the relevant period as required by Maryland law was willfully perpetrated and was not the product of good faith on the part of Defendant.

**COUNT III**  
**MWPCL**

60. Plaintiff, on behalf of himself and the members of the MWPCL sub-class of the Maryland Classes, re-alleges and incorporates all previous paragraphs as if they were set forth herein.

61. During the relevant period, Defendant qualified as Plaintiff and the members of the MWPCL sub-class of the Maryland Classes' employer under the MWPCL.

62. As a result of the above alleged practices, during the relevant period, Defendant violated the MWPCL by failing to fully and timely compensate Plaintiff and the members of the MWPCL sub-class of the Maryland Classes all wages earned and due and owing for all overtime worked exceeding Forty (40) hours per week during the relevant period as required by Maryland law.

63. Defendant now owes Plaintiff and the members of the MWPCL sub-class earned and unpaid overtime premium wages for overtime Plaintiff and each member of the MWPCL sub-class of the Maryland Classes worked exceeding Forty (40) hours per week during the relevant period.

64. On information and belief, prior to and during the relevant period, Defendant had actual and/or constructive knowledge that the rate and method by which Defendant paid Plaintiff and the members of the MWPCL sub-class of the Maryland Classes for overtime worked exceeding Forty (40) hours per week during the relevant period was in direct violation of the Maryland overtime compensation requirements.

65. Defendant's failure to properly full and timely compensate Plaintiff and the members of the MWPCCL sub-class of the Maryland Classes earned wages each pay period during the relevant period as required by the Maryland law and the MWPCCL was not the product of good faith on the part of Defendant or a *bona fide* dispute by or between Defendant and Plaintiff or the members of the MWPCCL sub-class of the Maryland Classes.

**REQUEST FOR RELIEF**

**WHEREFORE**, Plaintiff requests the following relief:

- a) An order designating this action as a collective action on behalf of the Plaintiff and the FLSA Overtime Class and issuance of notices pursuant to 29 U.S.C. § 216(b) to all members of the FLSA Overtime Class;
- b) An order certifying this action as a FED. R. CIV. P. 23 class action on behalf of the proposed MWHL and MWPCCL sub-classes of the Maryland Classes;
- c) An order designating the Plaintiff as representative of the FLSA Overtime Class and the MWHL and MWPCCL sub-classes of the Maryland Classes and appointment of Plaintiff's counsel as counsel for the FLSA Overtime Class and the MWHL and MWPCCL sub-classes of the Maryland Classes;
- d) Leave to add additional plaintiffs by motion, the filing of written consent forms, or any other method approved by the Court;
- e) An order finding that Defendant violated the FLSA, MWHL, and the MWPCCL;
- f) An order finding Defendant's violations of the FLSA, MWHL, and MWPCCL were not the product of good faith;
- g) An order finding Defendant's violations of the FLSA, MWHL, and MWPCCL were willful;

- h) Judgment against Defendant and in favor of Plaintiff and the members of the FLSA Overtime Class and the Maryland Classes equal the full amount of each individual's earned and unpaid overtime premium wages due and owing for overtime worked exceeding Forty (40) hours per week during the relevant period.
- i) An award against Defendant and in favor of Plaintiff and the members of the FLSA Overtime Class and the Maryland Classes in the full amount of all available liquidated damages and penalties as provided under the FLSA, MWHL, and MWPCL;
- j) An award in the amount of all costs and attorneys' fees incurred in prosecuting these FLSA, MWHL, and MWPCL claims in an amount to be determined by post-judgment petition; and
- k) Such further relief as the Court deems just and equitable.

Dated this 28<sup>th</sup> day of June 2024

Respectfully submitted,

ZIPIN, AMSTER & GREENBERG, LLC

/s/ Gregg C. Greenberg

Gregg C. Greenberg

Maryland Federal Bar No. 17291

8757 Georgia Avenue, Suite 400

Silver Spring, Maryland 20910

Telephone: 301-587-9373

Fax: 240-839-9142

Email: ggreenberg@zagfirm.com

*Counsel for Plaintiff and the Classes*

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

GEORGE K BRANIECKI

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Gregg C. Greenberg; Zipin, Amster, & Greenberg, LLC; 8757 Georgia Avenue, Suite 400, Silver Spring, MD 20910. Telephone: 301-587-9373

DEFENDANTS

BERLIN FIRE COMPANY, INC.

County of Residence of First Listed Defendant (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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, 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.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes sub-sections like PERSONAL INJURY, PERSONAL PROPERTY, HABEAS CORPUS, 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 - 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): 29 U.S.C. §201, et seq. Brief description of cause: Unpaid Wages, Unpaid Overtime

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

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

DATE: Jun 28, 2024 SIGNATURE OF ATTORNEY OF RECORD: /s/ Gregg C. Greenberg

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

**Case 1:24-cv-01900-JRR Document 1-1 Filed 06/28/24 Page 2 of 2**  
**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 there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven 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.  
 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 – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- 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.



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

UNITED STATES DISTRICT COURT

for the

District of Maryland

GEORGE K BRANIECKI

Plaintiff(s)

v.

BERLIN FIRE COMPANY, INC.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) BERLIN FIRE COMPANY, INC.
SERVE: David A Fitzgerald
214 North Main Street
Berlin, Maryland 21811

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: Gregg C. Greenberg, Zipin, Amster & Greenberg, LLC, 8757 Georgia Avenue, Suite 400, Silver Spring, Maryland 20910

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: