

I. Nature of Suit

1. Lowry's claims arise under 42 U.S.C. § 1983, U.S. Const. amend I and U.S. Const. amend XIV.

2. LaMarque, Bell, Yancy and Aragon violated Lowry's clearly established constitutional rights when they banned him from posting on social media, removed signs for political causes supported by him, threatened his safety, declared him an enemy of LaMarque and attempted to expel him from the city.

3. By way of this action, Lowry seeks equitable relief, injunctive relief, actual damages, compensatory damages, punitive damages, attorney's fees, costs, prejudgment interest and postjudgment interest for violations of his constitutional rights.

II. Jurisdiction & Venue

4. This action arises under a federal statute, 42 U.S.C. § 1983. 28 U.S.C. § 1331 (federal-question jurisdiction).

5. This action seeks to redress the deprivation of rights, privileges, and/or immunities guaranteed by the United States Constitution. 28 U.S.C. § 1343.

6. Venue is proper in this district and division because LaMarque, Bell, Yancy and Aragon reside in this district and division. 28 U.S.C. § 1391(b)(1).

7. Venue is proper in this district and division because a substantial part of the events or omissions giving rise to Lowry's claim(s) occurred in this district and division. 28 U.S.C. § 1391(b)(2).

III. Parties

8. Lowry is an individual who resides in Galveston County, Texas.

9. LaMarque is a political subdivision of the State of Texas and may be served with process by serving its mayor, clerk, secretary or treasurer. *See*, Tex. Civ. Prac. & Rem. Code § 17.024(a).

10. Bell is an individual who resides in Galveston County, Texas and who may be served with process at:

111 Bayou Road
La Marque, Texas 77568

or wherever he may be found; he is sued both in his individual capacity (for monetary damages) and his official capacity (for injunctive and declaratory relief).

11. Yancy is an individual who resides in Galveston County, Texas and who may be served with process at:

111 Bayou Road
La Marque, Texas 77568

or wherever she may be found; she is sued both in her individual capacity (for monetary damages) and her official capacity (for injunctive and declaratory relief).

12. Aragon is an individual who resides in Galveston County, Texas and who may be served with process at:

111 Bayou Road
La Marque, Texas 77568

or wherever he may be found; he is sued both in his individual capacity (for monetary damages) and his official capacity (for injunctive and declaratory relief).

IV. Facts

13. Lowry is a resident of LaMarque, a business owner and an activist.

14. He fights hard to (1) reduce the tax burden on LaMarque residents; (2) ensure that their money is spent wisely and (3) expose corruption and misconduct by politicians.

15. And when elected officials breach the public trust—for whatever reason—Lowry campaigns to remove and replace them.

16. Lowry does all of this with the goal of improving the community he calls home and raising the living standards for LaMarque residents.

17. Like many, Lowry expresses his views on social media platforms, including on LaMarque's Facebook page.

18. When Lowry criticizes LaMarque and its elected officials, he is speaking as a citizen on matters of public concern (for example, violations of law, government corruption, ineptitude, finance and taxes).

19. Some elected and other government officials—including, Bell (the mayor of LaMarque), Yancy (a councilmember) and Aragon (police chief and interim city

manager)—do not share Lowry’s views; in fact, they strongly disagree with Lowry on just about everything.

20. They also resent having their misconduct made available for public consumption.

21. But, as the Supreme Court put it:

If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalist, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not occur to us.

West Virginia St. Bd. of Educ. v. Barnette, 319 U.S. 624, 642 (1943).

22. And despite this clearly established constitutional right to engage in dissenting, critical or unpopular speech, LaMarque, Bell, Yancy and Aragon have censored and punished Lowry for publicly expressing viewpoints on matters of public concern that are critical of or otherwise unfavorable to them.

23. For example, when Lowry posts comments critical of LaMarque’s administration (including, Bell, Yancy and Aragon) on the city’s Facebook page, his comments are removed, and he is banned from posting.

24. Lowry has resorted to posting under pseudonyms, but they too are deleted and the accounts he used to post them are banned.

25. Citing city ordinances, political signage for causes with which Lowry is associated (and that are critical of are LaMarque, Bell, Yancy and Aragon) is frequently removed even though other signage (that is supportive of LaMarque, Bell, Yancy and Aragon) is left untouched.

26. LaMarque, Bell, Yancy and Aragon and those acting at their direction also frequently refuse to turn over public records to Lowry in spite of a legal obligation to do so.

27. Lowry has no meaningful way of appealing LaMarque's decision to ban him from posting on social media or the censorship of his political signage or the refusal to turn over public records.

28. On top of that, both Yancy (a councilmember) and Aragon (the police chief and interim city manager) have—during LaMarque city council meetings—declared Lowry to be a “domestic terrorist.”

29. In fact, Aragon (again, during a city council meeting) threatened the safety of LaMarque residents (including Lowry) at the hands of the city's police department if they were critical of Mayor Bell or any other members of city government; his comments recorded on video. *See*, <https://www.youtube.com/watch?v=TTKt1Q4A9-Q>.

30. Were that not enough, agents of Bell, Yancy and Aragon (including Mandalyn Salazar), organized a protest—complete with city-approved permits—

directly in front of Lowry's home with the stated purpose of exiling Lowry from the city.

31. The conduct of LaMarque, Bell, Yancy and Aragon evidences an official policy and longstanding custom intended to chill dissenting speech and manipulate a public forum so that only viewpoints and speech favorable to and complimentary of them are expressed.

32. The conduct of LaMarque, Bell, Yancy and Aragon has deprived Lowry of his clearly established rights under the First Amendment and the Fourteenth Amendment of the United States Constitution; he is, therefore, entitled declaratory and injunctive relief, actual damages, monetary damages, and attorney's fees and costs.

33. LaMarque has a custom, policy and/or practice of suppressing constitutionally protected speech.

34. Consistent with LaMarque's custom, policy and/or practice of suppressing constitutionally protected speech, city officials banned Lowry from posting on social media, removed signs for political causes supported by him, declared him an enemy of LaMarque and are attempting to exile him using, among other things, threats against his safety.

35. LaMarque's customs, policies and/or practices, individually and in the aggregate, proximately caused grievous, permanent injury to Lowry, including great distress, physical pain, mental anguish, fear, suffering and economic damages.

36. LaMarque's, Bell's, Yancy's and Aragon's wrongful acts have directly and/or proximately caused grievous, permanent injury to Lowry, including great emotional distress, physical pain, mental anguish, fear, humiliation, embarrassment, degradation, injury to his reputation, suffering and economic damages.

37. LaMarque Bell, Yancy and Aragon engaged in these wrongful acts with malice or with reckless indifference to Lowry's clearly established constitutional rights.

**V. Count One—
Violation of 42 U.S.C. § 1983/
Lowry's First Amendment Rights: Freedom of Speech
(Bell, Yancy and Aragon in their individual and official capacities)**

38. Lowry adopts by reference all of the facts set forth above. *See*, Fed. R. Civ. P. 10(c).

39. Bell, Yancy and Aragon engaged in viewpoint-based discrimination and censorship of Lowry's speech about matters of public concern in a public forum in violation of Lowry's rights under the First Amendment and Fourteenth Amendment.

40. Moreover, the decision by Bell, Yancy and Aragon to ban Lowry from posting about matters of public interest on LaMarque's Facebook page is an impermissible prior restraint of Lowry's speech.

41. Bell's, Yancy's and Aragon's acts were undertaken at all times under the color of law.

42. Bell, Yancy and Aragon were or should have been aware that their acts were unconstitutional; it is clearly established that an official or another acting under color of state law cannot censor or restrict speech or punish a speaker based on the viewpoint expressed regardless of forum.

43. No reasonable official would so unlawfully, willingly and arbitrarily restrict speech on matters of public concern in the same manner as Bell, Yancy and Aragon have done and continue to do.

44. Bell, Yancy and Aragon have knowingly and willfully censored and punished Lowry, as well others, with a reckless and callous disregard for their constitutional rights; they went so far as to formally declare Lowry as a public enemy disregard and to seek his expulsion from LaMarque.

45. Bell, Yancy and Aragon were knowingly and willfully undertaken to retaliate against Lowry for his ongoing and past criticism of them, their activities, and their policies.

46. Bell's, Yancy's and Aragon's actions injured Lowry in a way likely to chill a person of ordinary firmness from further participation in the public discourse and democratic process, including on Facebook.

47. As a direct and proximate cause of Bell's, Yancy's and Aragon's unlawful acts, Lowry has been forced to limit his protected speech and other expressive activity for fear of further retaliation.

48. As a direct and proximate cause of Bell's, Yancy's and Aragon's unlawful acts, Lowry has been deprived of her constitutional rights and suffered damage to his reputation, irritation, humiliation, and shame.

49. As a result, Lowry is entitled to compensatory and punitive damages against Bell, Yancy and Aragon.

50. Lowry is also entitled preliminary and permanent injunctive relief against Bell, Yancy and Aragon; their acts of punishing and censoring Lowry and his constitutionally protected speech because of his viewpoints are likely to continue absent injunctive relief.

51. Lowry has and will continue to suffer considerable and irreparable harm without injunctive relief; he wants (1) all of his comments to be reinstated on LaMarque's Facebook page (2) to continue participating in public discourse on matters of public interest on the LaMarque Facebook page and (3) to be free of fear of retaliation for engaging in protected speech related to LaMarque, and its officials, policies, and conduct.

52. There is no adequate remedy available at law to redress Lowry's injuries and to prevent further harm to him and to others.

53. Lowry is likely to succeed on the merits of his claims; moreover, there is substantial public interest in ensuring that Bell, Yancy and Aragon cease engaging in viewpoint-based restriction and censorship of speech in any public forum.

54. Lowry also seeks declaratory relief against Bell, Yancy and Aragon, attorney's fees under 42 U.S.C. § 1988 and for any further relief the Court deems just and proper.

55. A justiciable controversy involving the continuing deprivation of Lowry's right to speak free of viewpoint discrimination under the First and Fourteenth Amendment exists between the parties. A declaratory judgment will serve to further resolve the dispute between the parties and thaw the chilling effects of Bell's, Yancy's and Aragon's acts and policies and further participation in local government from Lowry and other citizens.

**VI. Count Two—
Violation of 42 U.S.C. § 1983/
Lowry's Fourteenth Amendment Rights: Due Process
(Bell, Yancy and Aragon in their individual and official capacities)**

56. Lowry adopts by reference all of the facts set forth above. *See*, Fed. R. Civ. P. 10(c).

57. Bell, Yancy and Aragon removed Lowry's protected speech on matters of public concern on LaMarque's Facebook page without notice or legitimate expectation.

58. Bell, Yancy and Aragon banned and continue to ban Lowry from posting on LaMarque's Facebook page without notice or legitimate expectation.

59. Lowry has no means to appeal or to otherwise challenge Bell's, Yancy's and Aragon's removal of his comments and banning him from LaMarque's Facebook page.

60. Bell's, Yancy's and Aragon's deprivation of Lowry's First Amendment rights without notice to him or affording him an opportunity to be heard constitutes a violation of his due process rights under the Fourteenth Amendment to the United States Constitution.

61. At all times relevant to the allegations herein, Bell, Yancy and Aragon were clearly aware that their acts and policy and custom were unlawful, and no reasonable official would so unlawfully, willingly, and arbitrarily restrict speech, censor speech, and punish speakers in the same manner as Defendants have and continue to do.

62. As a direct and proximate result of Bell's, Yancy's and Aragon's acts, which were done under the color of law, Lowry is entitled to damages in an amount to be proven at trial and preliminary and permanent injunctive relief.

63. Lowry also seeks declaratory relief against Bell, Yancy and Aragon, attorneys' fees under 42 U.S.C. § 1988 and any further relief the Court deems just and proper.

64. A justiciable controversy involving the continuing deprivation of Lowry's due process rights under the Fourteenth Amendment exists between the parties. A declaratory judgment will serve to further resolve the dispute between the parties and thaw the chilling effects of Bell's, Yancy's and Aragon's acts and policies and further participation in local government from Lowry and other citizens

**VII. Count Three—
Monell Claim Against Local Governmental Entity:
Unconstitutional Local Government Custom, Policy or Practice
(LaMarque)**

65. Lowry adopts by reference all of the facts set forth above. *See*, Fed. R. Civ. P. 10(c).

66. At all times relevant, LaMarque developed, ratified, enforced, and continue to enforce an official city policy and/or longstanding custom of removing and censoring speech concerning matters of public interest from the LaMarque's Facebook page, but only where such speech is critical of, unpopular with, or otherwise unfavorable to LaMarque and/or its officials (including Bell, Yancy and Aragon).

67. LaMarque's official city policy and/or longstanding custom also calls for, among other things: (1) banning members of the public from LaMarque's Facebook

page; (2) declaring members of the public to be enemies of LaMarque (“domestic terrorists”) and (3) threatening the safety of members of the public as retaliation and punishment for expressing critical or unpopular viewpoints on LaMarque’s Facebook page or in public. LaMarque and its officials have and continue to enforce such bans without notice, without legitimate explanation, and without an opportunity to appeal or otherwise challenge the decision.

68. This unconstitutional official city policy and/or longstanding custom, as alleged herein, was developed, ratified, and enforced, and continues to be enforced, under the color of law. The official city policy and/or longstanding custom was developed, ratified, enforced, and continues to be enforced through and by Bell, Yancy and Aragon, who are vested with final policy-making authority over law enforcement and other official LaMarque matters, where such authority was vested under state law or by formal and lawful delegation of authority.

69. LaMarque’s enforced and ongoing official city policy and/or longstanding custom of removing and censoring speech constitutes (1) an impermissible viewpoint-based restriction on speech in violation of the First and Fourteenth Amendments to the United States Constitution and (2) a violation of banned individuals’ due process rights under the Fourteenth Amendment to the United States Constitution.

70. At all times relevant, LaMarque and its officials were or should have been aware that the official policy and/or longstanding custom as alleged were unlawful. It is clearly established that a state actor cannot censor or restrict speech, or punish a speaker, based on the viewpoint expressed, regardless of the forum.

71. No local government or reasonable official with final policy-making authority would so unlawfully, willingly, and arbitrarily have developed, ratified and enforced the unconstitutional official city policy and/or longstanding custom described above.

72. LaMarque's policy and/or custom extended to not providing notice and opportunity to be heard to citizens whose comments city officials removed from its Facebook page and who they banned from the page based on the viewpoint expressed, despite the clearly established liberty interest engaging in critical and dissenting expression on a matter of public concern in a public forum.

73. LaMarque through its officials developed, ratified, enforced, and continues to enforce the official city policy and/or longstanding custom with a reckless and callous disregard for the constitutional rights of citizens.

74. As a direct and proximate cause of LaMarque's unconstitutional official policy and/or longstanding custom, and the acts undertaken pursuant to it, Lowry has been barred from communicating on the public LaMarque Facebook page about

important matters of public interest and his safety threatened which restricts his ability to participate in public discourse and the democratic process.

75. As a direct and proximate cause of LaMarques unconstitutional official policy and/or longstanding custom, and the acts undertaken pursuant to it, Lowry has been forced to limit his protected speech and other expressive activity for fear of further retaliation from city officials.

76. As a direct and proximate cause of LaMarque's unconstitutional official policy and/or longstanding custom, and the acts undertaken pursuant to it, Lowry has suffered damage to his reputation, humiliation, irritation, and shame.

77. LaMarque's unconstitutional viewpoint-based official policy and/or longstanding custom were the moving force behind the deprivation of LaMarque's First Amendment rights described above.

78. As a result, Lowry is entitled to compensatory damages against LaMarque under 42 U.S.C. § 1983 in an amount to be proven at trial.

79. Lowry is also entitled to preliminary and permanent injunctive relief against LaMarque and its continued enforcement of its unconstitutional official city policy and/or longstanding custom. LaMarque's acts of punishing, censoring, and chilling Lowry's constitutionally protected speech based on his viewpoints is likely to continue absent injunctive relief.

80. As a direct and proximate cause of LaMarque's unconstitutional official policy and/or longstanding custom, other citizens have been punished and censored for expressing certain viewpoints, and have been forced to limit their protected speech and other protected expressive activity for fear of further retaliation from city officials.

81. Absent injunctive relief, the harm alleged herein suffered by Lowry and others is likely to continue, as LaMarque officials are likely to continue enforcement and/or resume enforcement of their unconstitutional official city policy and/or longstanding custom.

82. Lowry has and will continue to suffer considerable and irreparable harm if LaMarque is not enjoined from further enforcing its unconstitutional official policy and/or longstanding custom. Lowry desires to continue participating in public discourse on matters of public concern on the city's Facebook page and other public forums and in participating in the democratic process. Others have suffered the same or similar harm. There is no adequate remedy available at law sufficient to redress Lowry's injuries and prevent further harm to Lowry and others.

83. Lowry is likely to succeed on the merits of his claims. Moreover, there is substantial public interest in ensuring that LaMarque officials cease engaging in viewpoint-based censorship, restriction, and purposeful chilling of protected speech.

84. Lowry also seeks declaratory relief as to LaMarque's unconstitutional official policy and/or longstanding custom, attorneys' fees and costs under 42 U.S.C. § 1988 and for any further relief the Court deems just and proper.

85. A justiciable controversy involving the continuing deprivation of Lowry's free speech rights under the First and Fourteenth Amendments exists between the parties. A declaratory judgment will serve to further resolve the dispute between the parties and thaw the chilling effects of LaMarque's policy and/or custom and help further participation in local government by Lowry and other citizens.

VIII. Attorney's Fees & Costs

86. Lowry adopts by reference all of the facts set forth above. *See*, Fed. R. Civ. P. 10(c).

87. Lowry is authorized to recover attorney's fees and costs on his claims by statute and under principles of equity. *See, e.g.*, 42 U.S.C. § 1988 (permitting recovery of attorney's fees for claims arising under 42 U.S.C. § 1983).

88. Lowry has retained the professional services of the undersigned attorneys.

89. Lowry has complied with the conditions precedent to recovering attorney's fees and costs.

90. Lowry is entitled to recover his attorney's fees and costs.

91. Lowry has incurred or may incur attorney's fees and costs in bringing this lawsuit.

92. The attorney's fees and costs incurred or that may be incurred by Lowry were or are reasonable and necessary.

IX. Conditions Precedent

93. All conditions precedent have been performed or have occurred.

X. Jury Demand

94. Lowry demands a trial by jury on all issues triable to a jury. *See*, Fed. R. Civ. P. 38.

XI. Relief Sought

95. Lowry demands the following relief:

- a. declaratory and injunctive relief;
- b. damages in an amount to be established at trial resulting from the deprivation of Lowry's constitutional rights, including past and future economic loss, physical harm, emotional trauma, loss of privacy, and loss of reputation;
- c. damages in an amount to be established at trial sufficient (1) to punish LaMarque, Bell, Yancy and Aragon for their outrageous and malicious conduct which was undertaken with a reckless disregard for and with deliberate indifference to Lowry's constitutional rights; (2) to discourage LaMarque, Bell, Yancy and Aragon from engaging in similar conduct in the future and (3) to deter others from engaging in similar unlawful conduct;

- d. compensatory damages for severe mental anguish in the past and future and injury to his reputation resulting from the unlawful actions of LaMarque, Bell, Yancy and Aragon;
- e. an award of reasonable and necessary attorney's fees as specifically authorized by, among other things, 42 U.S.C. § 1988;
- f. an award of reasonable and necessary costs and expenses;
- g. prejudgment interest as provided by law;
- h. postjudgment interest as provided by law; and
- i. judgment for all the other relief to which Lowry may be entitled.

Respectfully Submitted,

MOORE & ASSOCIATES
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ATTORNEYS FOR PLAINTIFF

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

Joseph Lowry

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

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

Moore & Associates (713) 222-6775 Phone
440 Louisiana St., Ste. 1110 (713) 222-6739
Houston, TX 77002 www.mooreandassociates.net

DEFENDANTS

City of La Marque, Texas
Keith Bell
Kimberley Yancy

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 ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 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 | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

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

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

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):

Fair Labor Standards Act of 1938, 42 U.S.C. §§ 1983

Brief description of cause:
Deprivation of Rights

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

04/11/2022

SIGNATURE OF ATTORNEY OF RECORD

Melissa Moore

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
- 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.