

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DANIEL DELANGE, on behalf of himself :
and all others similarly situated :

Plaintiffs, :

v. :

ATLANTIC INTERTECH LLC D/B/A :
DEEP SIX CBD ONLINE EDIBLES & :
OILS, :

Defendant.

JURY DEMANDED

Civil Action No.: _____

COLLECTIVE AND CLASS ACTION COMPLAINT

Plaintiff, Daniel DeLange (hereinafter “Plaintiff”), brings this class action on behalf of himself and putative classes of similarly situated persons against Defendant, Atlantic Intertech LLC d/b/a Deep Six CBD Online Edibles & Oils (hereinafter “Defendant”), for violations of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, *et seq.*, the Pennsylvania Wage Payment and Collection Law (“WPCL”), 43 P.S. § 260.1, *et seq.*, and the Pennsylvania Minimum Wage Act of 1968 (“PMWA”), 43 P.S. 333.101, *et seq.* Plaintiff asserts his FLSA claim as a collective action under 29 U.S.C. § 216(b) and asserts his WPCL and PMWA claims as a class action under Federal Rule of Civil Procedure 23. In support thereof, Plaintiff avers as follows:

PARTIES AND JURISDICTION

1. Defendant employed Plaintiff at its King of Prussia, Pennsylvania, location. Mr. DeLange resides in Royersford, Pennsylvania.

2. While employed by Defendant, Plaintiff qualified as an employee under the FLSA, the WPCL, and the PMWA.

3. The Defendant is a foreign limited liability company formed and organized in the state of Delaware, but operating from a headquarters located at 160 N Gulph Road, King of Prussia, Pennsylvania. At all times, Defendant qualifies as an employer under the FLSA, the WPCL, and the PMWA.

4. The Court may exercise original subject matter jurisdiction over the instant action under 28 U.S.C. §§ 1331 and 1343(a)(4) because it arises under the laws of the United States and seeks redress for violations of federal law.

5. The Court may also maintain supplemental jurisdiction over state law claims set forth herein under 28 U.S.C. § 1367(a) and Rule 18(a) of the Federal Rules of Civil Procedure because these causes of action are sufficiently related to one or more claims within the Court's original jurisdiction that they form part of the same case or controversy.

6. Plaintiff properly laid the venue for this Complaint in the Eastern District of Pennsylvania under 28 U.S.C. §§ 1391(b)(1) and 1391(b)(2) because Defendant operates its headquarters within this judicial district and because the majority of the acts and omissions giving rise to the claims set forth herein occurred in this judicial district. Also, during the entire period of his employment with Defendant, Plaintiff worked within this district.

FACTS

7. Defendant is a retailer of Cannabidiol (“CBD”) products at multiple outlets throughout Pennsylvania.

8. Defendant employed Plaintiff for various periods from June 26, 2017, to January 13, 2020. Initially, Defendant paid Plaintiff an hourly wage of approximately \$12.00 plus commission. His final hourly rate of pay was \$13.00 plus commission. During his employment, Defendant paid de minimis or trivial commissions to Plaintiff. At the time of his termination, Defendant had incorrectly classified Plaintiff as a “manager” in that he rarely, if ever, acted as a manager or supervisor, and his rate of pay fell below the threshold for exempt employee status. Throughout his employment, Defendant failed to compensate plaintiff for indispensable work performed before clocking in and after clocking out.

9. At the beginning of each shift, Plaintiff and other employees would arrive before the store opened at 10 a.m. and they would also stay past 9 p.m. when the store closed.

10. Plaintiff and other employees were not compensated for the extra time they worked in the morning before the store opened or at night when the store was closed.

11. Initially, Plaintiff would stay an average three to four hours extra every week either opening or closing the store, and then later the hours increased to about five to seven hours extra a week.

12. Plaintiff complained to Defendant’s managers about working extra hours without overtime pay and was rebuffed.

13. A week before Defendant terminated Plaintiff, Mr. DeLange again complained about the unpaid overtime to the company owner.

14. All told, over the course of his employment, Defendant failed to pay Plaintiff for approximately six hundred hours of overtime. Defendant also failed to pay other employees for similar amounts of overtime.

COLLECTIVE AND CLASS ALLEGATIONS

15. Plaintiff brings his FLSA claim under 29 U.S.C. §216(b) on behalf of:

All individuals, who, during any time within the past three years, have been employed by Defendant in Pennsylvania and who worked more than forty hours per week and were not paid overtime for the hours in excess of forty.

16. Plaintiff's FLSA claim should proceed as a collective action because Plaintiff and other putative collective members, having worked under the common compensation policies described herein, are "similarly situated" as that term as is defined in 29 U.S.C. §216(b).

17. In addition to the FLSA collective action, Plaintiff also brings his PWCL and PMWA claims for the same class as defined above but as a class action under Federal Rule of Civil Procedure 23.

18. The class action requisites outlined in Federal Rule of Civil Procedure 23 are satisfied and, therefore, class action treatment of Plaintiff's PWCL and PMWA claims is appropriate, as noted below:

- a. Upon information and belief, the class includes over 50 individuals, all of whom are readily ascertainable based on Defendant's payroll records and are so numerous that joinder of all class members is impracticable.
- b. Defendant's conduct concerning the class members raises questions of law and fact that are common to all class members. Common factual questions include, among other things, timekeeping and compensation practices and policies described herein. The Court may determine the legality of these policies and practices through the application of general legal principles to common facts.
- c. Plaintiff is a class member, his claims are typical of the claims of other class members, and Defendant's corresponding defenses are typical of the claims or defenses applicable to the class members because, among other things, and all claims arise from on the same legal theories and remedies. Further, the allegations made by Plaintiff—namely, that Defendant violated the PWCL and the PMWA's compensation provisions by failing to compensate them for all legally compensable time—align sufficiently with the interests of other class members so that Plaintiffs' pursuit of their interests will benefit all class members.

19. Plaintiff will fairly and adequately assert and protect the interests of all class members because among other things:
- a. Plaintiff is represented by experienced counsel who is well-prepared to vigorously and competently litigate this action on behalf of the class members;
 - b. Plaintiff and his counsel are free of any conflicts of interest that prevent them from pursuing this action on behalf of the class members; and,
 - c. The Class members' interests will not be harmed because counsel for Plaintiff has adequate financial resources to prosecute this litigation properly.
20. Class certification is appropriate under Federal Rule of Civil Procedure 23(b)(3) because common questions of law and fact predominate over questions affecting only individual class members and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation.

CAUSES OF ACTION

COUNT I Violations of the Fair Labor Standards Act ("FLSA") 29 U.S.C. §§ 201, *et seq.*

21. Plaintiff incorporates the preceding paragraphs as if set forth more fully at length herein.
22. The FLSA requires that employees receive overtime compensation calculated at 150% of their regular pay rate for hours worked over 40 hours per week.

23. Defendant violated the FLSA by failing to compensate Plaintiff and the collective class for all hours worked over forty hours per week.

WHEREFORE, Plaintiff seeks the damages outlined in the Request for Relief clause of this Complaint, *infra*.

COUNT II
Violations of Pennsylvania Wage Payment and Collection Law (“WPCL”)
43 P.S. 260.1, *et seq.*

24. Plaintiff incorporates the preceding paragraphs as if set forth more fully at length herein.

25. At all times relevant, Plaintiff and the class members are employees entitled to the protections under the WPCL.

26. At all times relevant, Defendant is an employer covered by the WPCL.

27. The WPCL requires that employees receive overtime compensation where that is otherwise required by state and federal law. Defendant violated the WPCL by failing to compensate Plaintiff and the class for all hours worked over forty hours per week.

28. Plaintiff and the class members are entitled to unpaid wages under the WPCL.

29. The WPCL provides that “[e]very employer shall pay all wages, other than fringe benefits and wage supplements, due to his employees on regular paydays designated in advance by the employer.” 43 Pa. Cons. Stat. Ann. § 260.3(a).

30. The WPCL confers onto employees the ability to institute legal actions to collect wages payable to them by employers. § 260.9a.

31. Defendant's failure to pay Plaintiff and the class members earned wages violates the WPCL.

WHEREFORE, Plaintiff seeks the damages outlined in the Request for Relief clause of this Complaint, *infra*.

COUNT III
Violations of the Pennsylvania Minimum Wage Act of 1968 ("PMWA")
43 P.S. §§ 333.101, *et seq.*

32. Plaintiff incorporates the preceding paragraphs as if set forth more fully at length herein.

33. At all times relevant, Plaintiff and the class members are employees entitled to the protections under the PMWA.

34. At all times relevant, Defendant is an employer covered by the PMWA.

35. The PMWA entitles employees to compensation for "all hours worked" in a workweek. See 43 P.S. § 333.104(a).

36. The PMWA requires that employees receive overtime compensation "not less than one and one-half times" the employee's regular rate of pay for all hours worked over 40 in a workweek. See 43 P.S. § 333.104(c).

37. Defendant has violated the PMWA by failing to compensate Plaintiff and other class members for all hours worked both before and during their work shifts. Accordingly, during weeks in which Plaintiff's and the class members' combined paid and unpaid compensable time exceeds forty (40) hours, Plaintiff and the class members are entitled to (i) compensation at their regular pay rate for uncompensated hours worked under forty (40) hours;

and (ii) compensation at their overtime premium pay rate for uncompensated hours worked over forty (40) hours.

38. In violating the PMWA, Defendant acted willfully and with reckless disregard of clearly applicable PMWA provisions and willfully violated the PMWA.

WHEREFORE, Plaintiff seeks the damages outlined in the Request for Relief clause of this Complaint, *infra*.

REQUEST FOR RELIEF

Plaintiff, Daniel DeLange, on behalf of himself and other members of the class/collective, seek the following relief:

- A. Orders permitting this action to proceed as a collective and class action, and undersigned counsel as class counsel;
- B. Unpaid wages (including overtime wages);
- C. Prejudgment interest;
- D. Liquidated damages and penalties;
- E. Litigation costs, expenses, and attorney's fees; and
- F. Such other relief as this Court deems just and proper;

JURY TRIAL DEMAND

Plaintiff demands a trial by jury as to all issues.

Date: July 24, 2020

RESPECTFULLY SUBMITTED:

LAW OFFICES OF ERIC A. SHORE, P.C.

/s/ Scott K. Johnson

SCOTT K. JOHNSON (Pa. Id. No. 85024)

Two Penn Center, Suite 1240

1500 John F. Kennedy Blvd.

Philadelphia, PA 19102

Tel.: (267) 546-0124

Fax: (215) 944-6124

Email: scottj@ericshore.com

Attorney for Plaintiff Daniel DeLange

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

DANIEL DELANGE

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
SCOTT K. JOHNSON
Two Penn Center, Suite 1240, 1500 John F. Kennedy Blvd.
Philadelphia, PA 19102 (267) 546-0124

DEFENDANTS

ATLANTIC INTERTECH LLC D/B/A DEEP SIX CBD ONLINE EDIBLES & OILS

County of Residence of First Listed Defendant N/A
(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)

- | | | | | | |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <hr/> PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <hr/> SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes	
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

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):
29 USC § 201

Brief description of cause:
FLSA Violation - Failure to Pay Overtime

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 150,000.00 CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 07/24/2020 SIGNATURE OF ATTORNEY OF RECORD
/s/ Scott K. Johnson

FOR OFFICE USE ONLY

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

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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.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

DANIEL DELANGE, on behalf of himself	:	CIVIL ACTION
and all others similarly situated	:	
v.	:	
ATLANTIC INTERTECH LLC D/B/A	:	
DEEP SIX CBD ONLINE EDIBLES & OILS	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>7/24/20</u>	<u>SCOTT K. JOHNSON</u>	<u>DANIEL DELANGE</u>
Date	Attorney-at-law	Attorney for
<u>(267) 546-0124</u>	<u>(215) 944-6124</u>	<u>scottj@ericshore.com</u>
Telephone	FAX Number	E-Mail Address

**Civil Justice Expense and Delay Reduction Plan
Section 1:03 - Assignment to a Management Track**

- (a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.
- (b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.
- (c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.
- (d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.
- (e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

**SPECIAL MANAGEMENT CASE ASSIGNMENTS
(See §1.02 (e) Management Track Definitions of the
Civil Justice Expense and Delay Reduction Plan)**

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 337 Summer Street Royersford, PA 19468

Address of Defendant: 160 N Gulph Road, King of Prussia, PA 19406

Place of Accident, Incident or Transaction: 160 N Gulph Road, King of Prussia, PA 19406

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|-----------------------------|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 07/24/2020 **Must sign here** PA 85024

 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
- 2. FELA
- 3. Jones Act-Personal Injury
- 4. Antitrust
- 5. Patent
- 6. Labor-Management Relations
- 7. Civil Rights
- 8. Habeas Corpus
- 9. Securities Act(s) Cases
- 10. Social Security Review Cases
- 11. All other Federal Question Cases
 (Please specify): FLSA -- 29 USC Section 201

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
- 2. Airplane Personal Injury
- 3. Assault, Defamation
- 4. Marine Personal Injury
- 5. Motor Vehicle Personal Injury
- 6. Other Personal Injury (Please specify): _____
- 7. Products Liability
- 8. Products Liability – Asbestos
- 9. All other Diversity Cases
 (Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, SCOTT K. JOHNSON, counsel of record or pro se plaintiff, do hereby certify:

Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

Relief other than monetary damages is sought.

DATE: 07/24/2020 **Sign here if applicable** 85024

 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [CDB Retailer Deep Six Owes Penn. Workers Unpaid Overtime Wages, Lawsuit Alleges](#)
