

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

GINA DIFLAVIS, for herself and all others similarly situated, <b style="text-align: center;">Plaintiff, <p style="text-align: center; margin-left: 100px;">v.</p> CHOICE HOTELS INTERNATIONAL, INC., <b style="text-align: center;">Defendant.)))))))))))))	Case No. _____ JURY TRIAL DEMANDED
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COLLECTIVE AND CLASS ACTION COMPLAINT

Gina DiFlavis (“Plaintiff”), by and through her undersigned attorneys, hereby makes the following allegations against Choice Hotels International, Inc. (“Defendant”) concerning her acts and status upon actual knowledge and concerning all other matters upon information, belief and the investigation of her counsel:

NATURE OF THE ACTION

1. Plaintiff brings this action to redress common policies and practices by which Defendant pays Clarion Hotel Housekeepers \$5 for each “extra room” they clean each day rather than paying a true “time and a half” overtime premium rate for each overtime hour they work, including for work performed during unpaid meal breaks. Defendant’s overtime policies and practices violate the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201, *et seq.* (“FLSA”) and the Pennsylvania Minimum Wage Act of 1968, 43 P.S. §§ 333.101, *et seq.* (“PMWA”) by failing to pay Clarion Hotel Housekeepers all legally-required overtime premium wages due for overtime work they perform with Defendant’s knowledge.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 29 U.S.C. §216(b), which provides that suit under the FLSA “may be maintained against any employer... in any Federal or State court of competent jurisdiction.” This Court also has jurisdiction over this action pursuant to 28 U.S.C. §1331 because Plaintiff asserts a claim arising under the FLSA.

3. This Court has supplemental jurisdiction over Plaintiff’s PMWA claim pursuant to 28 U.S.C. § 1367, because this claim arises from the same occurrences and transactions as her FLSA claim (i.e., Defendants’ failure to pay overtime wages) and are so related to this claim as to form part of the same case or controversy.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred in this District: Plaintiff resides in this District, Plaintiff worked for Defendant in this District, Plaintiff suffered the losses at issue in this District, Defendant has significant business contacts in this District, Defendant is alleged to have engaged in the wrongful conduct at issue in this District, and actions and omissions giving rise to Plaintiff’s claims occurred in this District.

THE PARTIES

5. Plaintiff Gina DiFlavis is an individual who resides in Delaware County, PA. From early June 2018 to late August 2018, Ms. DiFlavis worked as a full-time, hourly Housekeeper at the Clarion Hotel & Conference Center in Essington, PA (Philadelphia Co.). Ms. DiFlavis is personally familiar with, and has been personally affected by, the policies and practices described in this Complaint and has signed and filed a Consent Form to join this litigation. *See* Exhibit A.

6. Defendant Choice Hotels International, Inc. (“Choice Hotels”), based in Rockville, MD, is a one of the largest lodging companies in the world. *See* <https://en.wikipedia.org>

/wiki/Choice_Hotels (accessed Sept. 5, 2018); *https://www.choicehotels.com/about* (accessed Sept. 5, 2018). Choice Hotels owns a dozen hotel and motel brands totaling about 6,400 properties worldwide, including roughly 300 Clarion hotels in 39 states. *See Allstays.com* (accessed Sept. 5, 2018); *https://www.usatoday.com/story/travel/hotels/2018/07/05/choice-hotels-specializes-economical-and-mid-priced-hotels/757523002/* (accessed Sept. 5, 2018).

7. Throughout the relevant period, Choice Hotels has owned and exercised operational control over all significant business functions relating to hourly Housekeepers in Clarion Hotels, including: setting and implementing the common compensation, hours of work, overtime, scheduling and timekeeping policies and procedures at issue in this matter, providing training on these policies and procedures, tracking their hours worked and setting and paying their wages.

BACKGROUND FACTS

8. Defendant employs hourly Housekeepers to work in roughly 300 Clarion Hotel locations.

9. Clarion Hotel Housekeepers' duties include: making beds, replacing used towels with new ones, vacuuming carpets, cleaning and disinfecting bathrooms, stocking toiletries, changing bed sheets, polishing furniture, cleaning windows, restocking linen carts, observing issues in the rooms they clean and reporting any issues to the technical and/or maintenance departments.

10. Defendant maintains common compensation, hours of work, overtime, scheduling and timekeeping policies and procedures for all hourly Clarion Hotel Housekeepers that include:

- a. scheduling Housekeepers to work five 8½-hour shifts per week
- b. promising Housekeepers one 30-minute unpaid meal break per shift;
- c. promising to pay Housekeepers \$9.00 per hour for their first eight work hours each day plus \$5.00 per room for each room they service beyond 16 per day;

- d. providing Housekeepers with a daily list of 16 or more rooms to service;
- e. allowing Supervisors to routinely add rooms to Housekeepers' daily service list throughout the day;
- f. expecting Housekeepers to continue working until they have serviced all of their assigned rooms each day;
- g. permitting Housekeepers to work between 10 and 12 hours per day, including during their unpaid meal break, to service all of their assigned rooms; and
- h. failing to pay Housekeepers overtime premium wages due for hours they work beyond forty per week.

11. Defendant scheduled Ms. DiFlavis to work five 8½-hour shifts per week, with each shift including a 30-minute unpaid meal break. Defendant promised to pay Ms. DiFlavis \$9.00 per hour for her first 8 work hours per day plus \$5.00 per room for each room she serviced beyond 16 each day. Defendant gave Ms. DiFlavis a daily list of 16 or more rooms to service and her Supervisor routinely added more rooms to her service list throughout each day. Defendant expected Ms. DiFlavis to continue working until she had serviced all of her assigned rooms which caused her to routinely work between 10 and 12 hours per day, including during her unpaid meal break. On average, across her employment, Ms. DiFlavis worked about 50-55 hours per week, but was only paid for about 36 hours per week and did not receive an overtime premium rate of \$13.50 for any hour she worked beyond forty per week.

12. During her employment, Ms. DiFlavis saw other hourly Housekeepers and Supervisors following these common policies and procedures every day and, based on her observations and occasional discussions with other Housekeepers and Supervisors, came to believe these policies and procedures applied to, and affected, all hourly Housekeepers the same way.

13. Defendant knows that Clarion Hotel hourly Housekeepers' work time is not properly tracked or paid for many reasons, including that: it maintains policies and procedures that

calculate Housekeepers' pay based on work hours and room totals Supervisors enter into the payroll system, not on Housekeepers' recorded time punches and room service records; Supervisors assign the rooms for Housekeepers to service and regularly observe them throughout the day to see how many rooms they service; Housekeepers regularly tell their Supervisors that they have worked during their meal break or missed their meal break; and Housekeepers occasionally complain to their Supervisors that they have not been paid for all the hours they worked or all the rooms they cleaned.

FLSA COLLECTIVE ACTION ALLEGATIONS

14. Plaintiff brings her FLSA claim on an opt-in, collective basis pursuant to 29 U.S.C. § 216(b) for herself and all Clarion Hotel Housekeepers who have worked on a full-time, hourly basis during the maximum limitations period (the "FLSA Collective"). Plaintiff reserves the right to amend this definition as necessary.

15. Plaintiff belongs to the FLSA Collective she seeks to represent, because she worked as a full-time, hourly Clarion Hotel Housekeeper during the relevant period.

16. The FLSA Collective is "similarly situated," as defined by 29 U.S.C. § 216(b), because its members performed the same job and were subjected to the Company-wide policies and practices described herein.

17. Plaintiff and the FLSA Collective do not meet any test for exemption under the FLSA.

18. Based on Defendant's operation of about 300 Clarion Hotels, Plaintiff estimates that the FLSA Collective consists of at least several hundred and as many as a few thousand members. Defendant's payroll and personnel records, among other documents, are expected to reveal the total number of people who qualify to participate in the FLSA Collective.

PENNSYLVANIA CLASS ACTION ALLEGATIONS

19. Plaintiff brings her PMWA claim on an opt-out, class action basis pursuant to Fed. R. Civ. P. 23 for herself and all Pennsylvania residents who have worked as full-time, hourly Clarion Hotel Housekeepers and been denied overtime premium wages for overtime hours worked during the maximum limitations period (the “PA Class”).

20. Plaintiff is a member of the PA Class because she is a Pennsylvania resident who worked as a full-time, hourly Clarion Hotel Housekeeper and was denied overtime premium wages for overtime hours worked during the maximum limitations period.

21. Class treatment of Plaintiff’s PMWA claim is appropriate because the PA Class satisfies the requirements of Fed. R. Civ. P. 23.

22. The PA Class is so numerous that joinder of all its members would be impracticable. Based on Defendant’s operation of about 300 Clarion Hotels, Plaintiff estimates that the FLSA Collective consists of at least a few thousand members, meaning that joining all of their claims would be impracticable.

23. Plaintiff’s claim is typical of the claim belonging to the PA Class and she has no interests that are antagonistic to, or in conflict with, the interests of the PA Class.

24. There are many questions of law and fact common to the claims of the PA Class members because, *inter alia*, this action concerns the legality of the common scheduling, timekeeping and compensation policies and practices described herein. The legality of these policies will be demonstrated by applying generally applicable legal principles to common evidence.

25. Plaintiff will fairly and adequately assert and protect the interests of the PA Class because: there is no apparent conflict of interest between Plaintiff and the PA Class; Plaintiff’s

counsel have successfully prosecuted many complex class actions, including state-law wage and hour class actions, and will adequately prosecute these claims; and Plaintiff has adequate financial resources to assure that the interests of the PA Class will not be harmed because her counsel have agreed to advance the costs and expenses of litigation on the Class' behalf contingent upon the outcome of this litigation consistent with Pa. R. Prof. Conduct 1.8(e)(1). .

26. Allowing this action to proceed as a class action will provide a fair and efficient method for adjudication of the issues presented by this controversy because issues common to the PA Class predominate over any questions affecting only individual members; no difficulties are likely to be encountered in the management of this litigation as a class action; and the claim addressed in this Complaint is not too small to justify the expenses of class-wide litigation, nor is it likely to be so substantial as to require the litigation of individual claims.

27. Allowing Plaintiff's PMWA claim to proceed as a class action will be superior to requiring the individual adjudication of each PA Class member's claim, since requiring several hundred hourly-paid employees to file and litigate individual wage claims will place an undue burden on the PA Class members, Defendant and the Courts. Class action treatment will allow a large number of similarly-situated persons to prosecute their common claims in a single forum simultaneously, efficiently and without the unnecessary duplication of effort and expenses if these claims were brought individually. Moreover, as the damages suffered by each PA Class member are relatively small, the expenses and burdens associated with individual litigation would make it prohibitively impractical for them to bring individual claims. Further, the presentation of separate actions by individual PA Class members could create a risk for inconsistent and varying adjudications, establish incompatible standards of conduct for Defendant and/or substantially impair or impede the ability of the PA Class members to protect their interests.

28. Allowing Plaintiff's claim to proceed in a class action setting is also appropriate because Pennsylvania's wage laws expressly permit private class action lawsuits to recover unpaid regular and overtime wages.

COUNT I
VIOLATION OF THE FLSA
Unpaid Overtime Wages

29. Each of the preceding paragraphs is incorporated by reference as though fully set forth herein.

30. Defendant is an "employer" as defined by 29 U.S.C. § 203(d).

31. Plaintiff and the FLSA Collective members are "employees" as defined by 29 U.S.C. § 203(e)(1).

32. The wages Defendant pays to Plaintiff and the FLSA Collective are "wages" as defined by 29 U.S.C. § 203(m).

33. Defendant is an "enterprise engaged in commerce" within the meaning of 29 U.S.C. § 203(s)(1)(A).

34. Plaintiff and the FLSA Collective are similarly-situated individuals within the meaning of 29 U.S.C. § 216(b).

35. 29 U.S.C. § 216(b) expressly allows private plaintiffs to bring collective actions to enforce employers' failure to comply with the FLSA's requirements.

36. Throughout the relevant period, Defendant has been obligated to comply with the FLSA's requirements, Plaintiff and the FLSA Collective members have been covered employees entitled to the FLSA's protections, and Plaintiff and the FLSA Collective members have not been exempt from receiving wages required by the FLSA for any reason.

37. 29 U.S.C. § 207(a)(1) requires employers to pay their employees an overtime rate, equal to at least 1½ times their regular rate of pay, for all hours worked in excess of 40 hours per week.

38. Defendant has intentionally violated this provision of the FLSA by maintaining common timekeeping and compensation policies and practices that include: scheduling Plaintiff and the FLSA Collective to work five 8½-hour shifts per week; promising Plaintiff and the FLSA Collective one 30-minute unpaid meal break per shift; promising to pay Plaintiff and the FLSA Collective \$9.00 per hour for their first eight work hours each day plus \$5.00 per room for each room they service beyond 16 per day; providing Plaintiff and the FLSA Collective with a daily list of 16 or more rooms to service; allowing Supervisors to routinely add rooms to Plaintiff's and the FLSA Collective's daily service list throughout the day; expecting Plaintiff and the FLSA Collective to continue working until they have serviced all of their assigned rooms each day; permitting Plaintiff and the FLSA Collective to work between 10 and 12 hours per day, including during their unpaid meal break, to service all of their assigned rooms; and failing to pay Plaintiff and the FLSA Collective overtime premium wages due for hours they work beyond forty per week.

39. Defendant has acted with willful and/or reckless disregard for Plaintiff's and the FLSA Collective members' rights under the FLSA because it knows the FLSA Collective members' work time is not properly tracked or paid for many reasons, including that: it maintains policies and procedures that calculate the FLSA Collective members' pay based on work hours and room totals Supervisors enter into the payroll system, not on their recorded time punches and room service records; Supervisors assign the rooms for the FLSA Collective members to service and regularly observe them throughout the day to see how many rooms have been serviced, or remain to be serviced; the FLSA Collective members regularly tell their Supervisors that they have

worked during their meal break or missed their meal break; and the FLSA Collective members occasionally complain to their Supervisors that they have not been paid for all the hours they worked or all the rooms they cleaned.

40. Defendant has no good faith justification or defense for the conduct detailed above, or for failing to pay Plaintiff and the FLSA Collective members all wages mandated by the FLSA.

41. Plaintiff and the FLSA Collective have been harmed as a direct and proximate result of Defendant's unlawful conduct because they have been deprived of overtime premium wages owed for overtime work they performed that provided Defendant with a direct and substantial benefit.

COUNT II
VIOLATION OF THE PMWA
Unpaid Overtime Wages

42. Each of the preceding paragraphs is incorporated by reference as though fully set forth herein.

43. PMWA Section 4(c) requires employers to pay their employees overtime compensation of "not less than one and one-half times the employee's regular rate" for all hours worked over 40 in a given workweek. *See* 43 P.S. § 333.104(c).

44. Under the PMWA, overtime is calculated based on the number of hours worked in a "workweek", defined in controlling regulations as "a period of 7 consecutive days." *See* 34 Pa. Code § 231.42.

45. Throughout the relevant period, PMWA Section 8 required Defendant to "keep a true and accurate record of the hours worked by each employee and the wages paid to each." *See* 43 P.S. § 333.108.

46. Defendant has intentionally violated these provisions of the PMWA by maintaining common timekeeping and compensation policies and practices that include: scheduling Plaintiff and the PA Class members to work five 8½-hour shifts per week; promising Plaintiff and the PA Class members one 30-minute unpaid meal break per shift; promising to pay Plaintiff and the PA Class members \$9.00 per hour for their first eight work hours each day plus \$5.00 per room for each room they service beyond 16 per day; providing Plaintiff and the PA Class members with a daily list of 16 or more rooms to service; allowing Supervisors to routinely add rooms to Plaintiff's and the PA Class members' daily service list throughout the day; expecting Plaintiff and the PA Class members to continue working until they have serviced all of their assigned rooms each day; permitting Plaintiff and the PA Class members to work between 10 and 12 hours per day, including during their unpaid meal break, to service all of their assigned rooms; and failing to pay Plaintiff and the PA Class members overtime premium wages due for hours they work beyond forty per week.

47. Defendant has acted with willful and/or reckless disregard for Plaintiff's and the PA Class members' rights under the PMWA because it knows the PA Class members' work time is not properly tracked or paid for many reasons, including that: it maintains policies and procedures that calculate the PA Class members' pay based on work hours and room totals Supervisors enter into the payroll system, not on their recorded time punches and room service records; Supervisors assign the rooms for the PA Class members to service and regularly observe them throughout the day to see how many rooms have been serviced, or remain to be serviced; the PA Class members regularly tell their Supervisors that they have worked during their meal break or missed their meal break; and the PA Class members occasionally complain to their Supervisors that they have not been paid for all the hours they worked or all the rooms they cleaned.

48. Defendant has no good faith justification or defense for the conduct detailed above, or for failing to pay Plaintiff and the PA Class members all wages mandated by the PMWA.

49. Plaintiff and the PA Class members have been harmed as a direct and proximate result of the unlawful conduct described here, because they have been deprived of overtime premium wages owed for overtime work they performed and from which Defendant derived a direct and substantial benefit.

WHEREFORE, Plaintiff respectfully prays for an Order:

- a. Certifying this matter to proceed as a collective action with respect to Count I and as a class action with respect to Count II;
- b. Approving Plaintiff as an adequate Class representative;
- c. Appointing Stephan Zouras, LLP to serve as Class Counsel;
- d. Finding Defendant willfully violated the applicable provisions of the FLSA and PMWA by failing to pay all required overtime wages to Plaintiff and the FLSA Collective and PA Class members;
- e. Granting judgment in favor of Plaintiff and the FLSA Collective and PA Class members against Defendant, and each of them, jointly and severally, on Counts I and II;
- f. Awarding all available compensatory damages in amounts to be determined;
- g. Awarding all available liquidated damages in amounts to be determined;
- h. Awarding pre-judgment interest on all compensatory damages due;
- i. Awarding a reasonable attorney's fee and reimbursement of all costs and expenses incurred in litigating this action;
- j. Awarding equitable and injunctive relief precluding the continuation of the policies and practices pled in this Complaint;
- k. Awarding any further relief the Court deems just, necessary and proper; and
- l. Maintaining jurisdiction over this action to ensure Defendant's compliance with the foregoing.

JURY DEMAND

Plaintiff demands a jury trial as to all claims so triable.

Respectfully Submitted,

Dated: September 12, 2018

/s/ David J. Cohen

David J. Cohen
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Attorneys for Plaintiff

CONSENT TO JOIN COLLECTIVE ACTION

Gina Diflavis v. Choice Hotels International, Inc.
United States District Court, Eastern District of Pennsylvania

Complete and Return To:
STEPHAN ZOURAS, LLP
Attn: Choice Hotels Overtime Action
100 N. Riverside, Suite 2150
Chicago, IL 60606
Phone: 312-233-1550
Fax: 312-233-1560
E-mail: lawyers@stephanzouras.com

By signing below, I affirm that I worked as a full-time, hourly housekeeper at Clarion Hotels in the past three years, and was not properly paid for all the work I performed, including overtime.

I consent to join this lawsuit for violations of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*

I designate Stephan Zouras, LLP and other attorneys with whom they may associate to represent me for all purposes of this action.

I designate the Class Representative(s) as my agent(s) to make decisions on my behalf concerning the litigation, the method and manner of conducting this litigation, settlement, the entering of an agreement with Plaintiffs' counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit.

If this case does not proceed collectively, then I also consent to join any subsequent action to assert these claims.

9/10/2018

Date

DocuSigned by:
Gina Diflavis
7CA483B4F29C42D...
Signature

Gina Diflavis

Print Name

JS 44 (Rev. 06/17)

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

GINA DIFLAVIS

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

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

DAVID J. COHEN, STEPHAN ZOURAS, LLP
604 SPRUCE ST., PHILA., PA 19106 / 215-873-4836

DEFENDANTS

CHOICE HOTELS INTERNATIONAL, INC.

County of Residence of First Listed Defendant MONTGOMERY CO. MD
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

N/A

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 | <input checked="" 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 checked="" 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)

Click here for: [Nature of Suit Code Descriptions.](#)

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 Tort 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	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Injury Product <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input checked="" 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 IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 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 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)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<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"/> 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	CIVIL RIGHTS	PRISONER PETITIONS			
<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	<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	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			

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

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
29 U.S.C. SEC 201 ET SEQ.

VI. CAUSE OF ACTION
Brief description of cause:
FAILURE TO PAY OVERTIME WAGES.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** _____ **JURY DEMAND:** Yes No

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

DATE Sept. 12, 2018 SIGNATURE OF ATTORNEY OF RECORD DAVID J. COHEN

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 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. 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 – 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.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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: 206 E. Wynona Ave., Norwood, PA 19074
Address of Defendant: 1 Choice Hotels Center, Suite 400, Rockville, MD 20850
Place of Accident, Incident or Transaction: Delaware Co. PA

RELATED CASE, IF ANY:

Case Number: N/A Judge: N/A Date Terminated: N/A

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 [] No [X]
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 [] No [X]
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 [] No [X]
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 [] No [X]

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

DATE: Sept. 12, 2018 Attorney-at-Law / Pro Se Plaintiff 74070 Attorney I.D. # (if applicable)

CIVIL: (Place a v 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
[X] 11. All other Federal Question Cases

(Please specify): FLSA, 29 USC Sec. 201 et seq.

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, David J. Cohen, counsel of record or pro se plaintiff, do hereby certify:

- [X] 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: Sept. 12, 2018 Attorney-at-Law / Pro Se Plaintiff 74070 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.

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

CASE MANAGEMENT TRACK DESIGNATION FORM

Gina DiFlavis

CIVIL ACTION

v.
Choice Hotels International,
Inc.

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. ()

Sept. 12, 2019
Date

David J. Cohen
Attorney-at-law

Plaintiff
Attorney for

215-873-4836

312-233-1560

dcohen@stephanzurqs.com

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.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Operator of Clarion Hotels Hit with Unpaid Overtime Lawsuit in Pennsylvania](#)
