

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

MICHAEL ELLIS, *individually* :
and on behalf of a class of :
similarly situated individuals, :

Plaintiff, :

v. :

TRADESMEN :
INTERNATIONAL, LLC :

Defendant. :

Civil Action No. _____

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiff, Michael Ellis (hereinafter “Plaintiff”), by and through his undersigned attorneys, brings this class action complaint against Defendant, Tradesmen International, LLC (hereinafter “Defendant”), for violations of the Pennsylvania Wage Payment and Collection Law, 43 P.S. § 260.1 (“WPCL”) as well as breach of contract and related quasi-contract claims, alleged in the alterative. Plaintiff Ellis, who is bringing this proposed class action on behalf of similarly situated Pennsylvanians, asserts diversity jurisdiction in this civil action because Tradesman International, LLC, is a foreign company, headquartered in the State of Ohio.

PARTIES

1. Plaintiff, who resides in Scranton, Pennsylvania, and Defendant employed him from September 2019 to December 2019 as a carpenter at various worksites throughout central and eastern Pennsylvania.

2. Defendant, which employed Plaintiff during 2019, is a limited liability company organized and existing under the laws of the State of Ohio, which according to the public records of the Pennsylvania Secretary of State (“SOS”) is operating in this state using the SOS Entity Number of 4311996. While Defendant operates in a multi-state territory, Plaintiff worked out of Defendant’s office located in Throop, Pennsylvania. According to its website, Defendant provides employment services, offering staffing, recruitment, and support services throughout the United States. Under the WPCL, Defendant qualifies as Plaintiff’s employer. 43 P.S. § 260.2a.

JURISDICTION AND VENUE

3. Plaintiff’s civil action asserts only state law claims. However, because the Parties are citizens of different States (i.e., Pennsylvania vs.

Ohio), 28 U.S.C. § 1332 confers diversity jurisdiction upon the federal district court.

4. Venue is properly laid in the Middle District of Pennsylvania pursuant to 28 U.S.C. §§ 1391(b)(1) and 1391(b)(2) because Defendant is located in this judicial district and because the majority of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district.

FACTS

5. Defendant employed Plaintiff as a carpenter from August 2019 until December 2019.

6. In general, Defendant paid Plaintiff an hourly wage of approximately \$24.00, although exact wage rate varied based on the particular job assignment or project.

7. In December 2019, Defendant assigned Plaintiff to work on an renovation project at a fast-food restaurant in Hallstead, Pennsylvania, promising to pay an hourly wage of \$21.00. In fact, Plaintiff completed the assigned job but was only paid an hourly wage of \$20.00. See Exhibit A (Attached as Exhibit A are true and correct copies of Plaintiff's payroll records during his employment with Defendant.)

8. In October 2019, Defendant assigned Plaintiff to work at construction site in Blakeslee, Pennsylvania. On two days of work, Defendant sent Plaintiff to the worksite when no work was available. In response to sending Plaintiff on a futile trip to work when no work was available, Defendant promised to pay Plaintiff for his travel time to and from the worksite, which was a hour from his home, at a hourly rate of \$24. For the two days of fruitless commutes to a worksite without work, Defendant promised to pay Plaintiff four hours at \$24/hr or \$96.00. By making the promise of reimbursing Plaintiff for his travel time on these days when he commuted long-distance to a worksite with an actual work for him to complete, Defendant induced Plaintiff to continue working on the particular project and accepting additional work assignments. Plaintiff relied upon Defendant's promises and continued working for Defendant. Defendant never paid the promised travel time compensation.

9. Upon information and belief, Defendant maintained a common practice and policy of promising high hourly wage rates while actually paying its employees lower hourly rates. Similarly, upon information and belief, Defendant engaged in a common practice and policy of inducing its

employees with false promises of travel reimbursements when they commuted long distances to worksites that had no actual work for them to do on particular work days.

CLASS ALLEGATIONS

10. Plaintiff brings his state law claims as a class action pursuant to Federal Rule of Civil Procedure 23 on behalf of the following class:

All individuals, who, during any time within the last four years have been employed by Defendant (or any affiliated business entity) as carpenters assigned to Defendant's office in Throop, Pennsylvania.

11. The class action requisites set forth in Federal Rule of Civil Procedure 23 are satisfied and, therefore, class action treatment of Plaintiff's state law claims is appropriate.

12. 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.

13. Defendant's conduct with respect to the class members raises questions of law and fact that are common to all class members. Common factual questions include, inter alia, the development and implementation of

the office-wide payroll deductions, timekeeping and compensation practices and/or policies described herein. The legality of these policies and practices will be determined through the application of general legal principles to common facts.

14. 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, inter alia, all claims are based on the same legal theories and remedies. Further, Plaintiff's allegations that Defendant violated class members state law rights to compensation provisions by failing to compensate him for all legally compensable time is sufficiently aligned with the interests of other class members that Plaintiff's pursuit of his own interests will benefit all class members.

15. Plaintiff will fairly and adequately assert and protect the interests of all class members because, inter alia, (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) Plaintiff and his

counsel have adequate financial resources to assure that the class members' interests will not be harmed.

16. 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.

COUNT I
Violations of Pennsylvania Wage Payment and Collection Law

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

18. At all times relevant, Plaintiff and the class members are employees entitled to the protections under the WPCL. (43 P.S. 260.1, et seq.)

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

20. On certain work days, when the work assignment was cancelled and Defendant promised to reimburse Plaintiff and class members for travel time, but it failed to do so. This promised payment of

travel reimbursement for cancelled work assignment constitutes a “fringe benefit” under the WPCL. In violation of the WPCL, Defendant failed to pay the promised fringe benefit.

21. On certain work assignments, Defendant promised to pay Plaintiff and class members a higher hourly rate than it actually did, in violation of the WPCL.

22. 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 P.S. § 260.3(a).

23. Defendant’s failure to pay Plaintiff and the class members earned fringe benefits and wages at the agreed rate is in violation of the WPCL.

COUNT II
Breach of Contract

24. Plaintiff incorporates the foregoing paragraphs as if fully set forth at length herein. Plaintiff alleges this Count and the other breach of contract and quasi-contractual counts (i.e., Counts II-V) in the alternative as the evidence shall be found to support.

25. Defendant promised in writing (by text or email) to Plaintiff and the similarly situated class members either a higher hourly wage rate than actually paid, or promised reimbursement for travel time to cancelled work assignments but failed to actually pay the reimbursement, or both

26. The written promises by text or email constituted an enforceable contract between Defendant and Plaintiff and the similarly situated class members.

27. Defendant's conduct in routinely failings to honor its written promises of a higher wage rate than paid and failing to pay written promises travel reimbursements to Plaintiff and the similarly situated class members constituted a breach of the duty imposed by the contract.

28. Defendant's breach of its duty imposed by the contract harmed Plaintiff and the similarly situated class members by depriving them of promised higher or additional compensation, causing them significant damages.

COUNT III
Breach of Implied Employment Contract

29. Plaintiff incorporates the foregoing paragraphs as if fully set forth at length herein. Plaintiff alleges this Count and the other breach of contract and quasi-contractual counts (i.e., Counts II-V) in the alternative as the evidence shall be found to support.

30. Plaintiff and the similarly situated class members supplied additional consideration (i.e., higher hourly wage rate and travel time compensation) to establish an employment contract.

31. Defendant failed to pay Plaintiff and the similarly situated class members the additional promised consideration.

32. As a proximate result of the Defendant's conduct, Plaintiff and the similarly situated class members sustained significant damages and a claim is made therefore.

COUNT IV
Promissory Estoppel

33. Plaintiff incorporates the foregoing paragraphs as if fully set forth at length herein. Plaintiff alleges this Count and the other breach of contract and quasi-contractual counts (i.e., Counts II-V) in the alternative as the evidence shall be found to support.

34. Plaintiff and the similarly situated class members supplied additional consideration for the employment contract by suffering a substantial detriment in that they continued their employment under certain terms of additional consideration, which they did ultimately receive..

35. The Defendant failed to pay Plaintiff and the similarly situated class members the promised additional consideration within a reasonable period of time following Defendant's promise and their performance.

36. Plaintiff and the similarly situated class members had no duty of inquiry as to whether the Defendant intended to provide the additional consideration in the form of higher hourly wage rate or travel time compensation.

37. As a proximate result of the Defendant's conduct, Plaintiff and the similarly situated class members sustained significant damages and a claim is made therefore.

COUNT V
Unjust Enrichment

38. Plaintiff incorporates the foregoing paragraphs as if fully set forth at length herein. Plaintiff alleges this Count and the other breach of

contract and quasi-contractual counts (i.e., Counts II-V) in the alternative as the evidence shall be found to support.

39. Defendant promised higher hourly rates of pay to its employees, Plaintiff and the class members, than it actually paid them. Defendant also promised its employees reimbursement for travel time to cancelled work assignments which it also failed to pay.

40. By accepting the work assignment and performing the assigned work, Plaintiff and the class members conferred a benefit of creating billable work for the Defendant.

41. Defendant acknowledged the completed assigned work by the Plaintiff and the class members, demonstrating that Defendant appreciated the benefit conferred.

42. Defendant inequitably accepted and retained the benefits conferred by Plaintiff and the class members. Defendant retention of the unpaid wages constitutes unjust enrichment.

RELIEF REQUESTED

WHEREFORE, Plaintiff, Michael Ellis, on behalf of himself and other members of the class, seek the following relief:

- a. Orders permitting this action to proceed as a class action, that Plaintiff be appointed class representative, and that undersigned counsel be appointed class counsel;
- b. Unpaid wages (including commission earned);
- 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 so triable.

Date: July 21, 2020

RESPECTFULLY SUBMITTED:

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

/s/ Scott K. Johnson
SCOTT K. JOHNSON, Esq.
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*Attorney for Plaintiff, Michael Ellis,
and the proposed class*

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

MICHAEL ELLIS, individually and on behalf of a class of similarly situated individuals,

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Scott K. Johnson, Law Offices of Eric A. Shore, P.C., Two Penn Ctr., Suite 1240, Philadelphia, PA 19102 (267) 546-0124

DEFENDANTS

TRADESMAN INTERNATIONAL, LLC

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)

Unknown

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location (Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation).

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

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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): 28 USC Section 1332 (diversity jurisdiction)

Brief description of cause: Employment class action for alleged violations of state wage and hour laws as well as related contract claims

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 07/21/2020 SIGNATURE OF ATTORNEY OF RECORD /s/ Scott K. Johnson (Pa. Id. No. 85024)

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.
 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.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Tradesmen International Paid Carpenters Less Than Promised Wages, Class Action Claims](#)
