

Nature of the Action, Jurisdiction, and Venue

- Page 1 of 18

Parties

4. **Plaintiff Jill Ferguson** resides in Upper St. Clair, Pennsylvania. Plaintiff worked for Defendant Aquatech International, LLC, from September 2014 until on or about January 11, 2018.
5. **Defendant Aquatech International, LLC**, is a privately held company and a leading global provider of industrial and infrastructure water treatment solutions and services. Defendant maintains its North America – Corporate Headquarters at One Four Coins Drive, Canonsburg, PA 15317.

Statement of Claims

6. Defendant employed Plaintiff from on or about September 8, 2014 until on or about January 11, 2018.
7. Defendant hired Plaintiff for the position of Payroll Specialist in Defendant's Canonsburg, PA, office in September 2014 following a three month temporary assignment from June 2014 to September 2014.
8. Plaintiff remained in this position until she was terminated on or about January 11, 2018.
9. Plaintiff reported to the Financial Controller, and that individual reported to the Vice President of Finance.
10. Plaintiff was paid a salary of about \$58,000 over the past three years, plus bonuses.
11. The bonuses were based on Aquatech's performance and were promised to be paid, and were paid, on a quarterly basis so long as Aquatech met certain defined benchmarks.

12. The bonuses paid to Plaintiff averaged about \$1,300 per year the last three years of her employment.
13. The bonuses are “non-discretionary” bonuses within the meaning of the FLSA and the PMWA.
14. Plaintiff worked more than 40 hours in most workweeks from the time she began her employment until she was terminated in January 2018.
15. Plaintiff was not paid overtime.
16. Rather, Defendant classified Plaintiff as exempt from overtime under the FLSA and PMWA.
17. From the time she was first hired in 2014 until she was terminated in January 2018 Plaintiff’s primary duty was to fill out spreadsheets and use other administrative software, and to work closely with the third-party administrator hired for payroll (ADP and/or Paycom), to make sure Aquatech’s employees (at all Aquatech locations) were paid.
18. Plaintiff performed these duties mostly from the Aquatech office in Canonsburg where she was assigned.
19. Plaintiff also performed some of these duties from home using company-provided equipment and software.
20. Plaintiff’s primary duty did not include the exercise of discretion and independent judgment with respect to matters of significance.
21. Rather, Plaintiff’s primary duty was to process payroll for Defendant’s employees and to do so in accordance with explicit guidelines given to her by management and in accordance with the software and protocols established by management and by the third-party payroll

administrator (ADP or Paycom).

22. Plaintiff's primary duty did not require advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction.
23. Rather, Plaintiff was only required to acquire and apply knowledge about the hours worked by Aquatech's employees and how to make sure they were paid, and to follow the guidelines and protocols established by management and the third-party payroll administrator in doing so.
24. Plaintiff did not write these guidelines or protocols, and did not have discretion to change these guideline or protocols or to do anything other than follow them.
25. Plaintiff supervised no one.
26. Plaintiff was scheduled to work a shift from 8:00 a.m. to 5:00 p.m. five days per week, with an assumed sixty-minute lunch break at the office.
27. Thus, the scheduled work shift was for 8 hours of work each day with the presumed one-hour lunch break making it a nine-hour shift.
28. Plaintiff almost always ate lunch while working at her desk.
29. Plaintiff rarely, if ever, took an uninterrupted lunch break.
30. Thus, Plaintiff's actual work day at the office (hours she was working, not merely scheduled) was normally a minimum of 9 hours per day.
31. Management knew Plaintiff rarely took an uninterrupted lunch break.
32. Management knew this from the personal observations of Plaintiff's managers and/or from the electronic records of Plaintiff's work, e.g., phone records, e-mails, computer log records.

33. In addition to the time spent working at the office Plaintiff also had to work from home in the evenings and on the weekends as necessary to complete her work.
34. Plaintiff frequently did not have time during her scheduled shift to complete the work required for her job.
35. As a result, Plaintiff normally arrived before the start of her shift each day and after the scheduled end of her shift each day in order to try to complete her work. Thus, Plaintiff worked an average 9.5 to 10 hours per day at the office.
36. Defendant knew that Plaintiff was arriving at work before her shift started, and leaving after her shift ended, and working evenings and on the weekends, because the other salaried employees similarly situated to Plaintiff at the Canonsburg facility (see ¶ 37) also normally worked before the start of their scheduled shifts and after the end of their scheduled shifts and from home in the evenings and on the weekends; because management saw Plaintiff regularly arrive early and leave late and saw the other similarly situated employees arrive early and leave late; and, because management monitored the work that Plaintiff, and the other similarly situated employees, was performing.
37. The similarly situated employees for purposes of this action are the salaried employees at the Canonsburg facility performing non-exempt work who were also not paid overtime due to the fact they were subject to the same common policy of classifying them as exempt simply because they were paid a salary, namely: three (3) or so accountants, five (5) or so purchasing agents, two or three (2 or 3) clerks, two (2) or so marketing employees and more than twenty (20) engineers.¹

¹ This collective/class of similarly situated employees is referred to generally throughout the Complaint as “similarly situated salaried employees performing non-exempt work.” “Non-exempt work” as used in this Complaint refers to jobs that do not, as their primary duty, involve the supervision of two or more full-time employees; do not involve the exercise of discretion and independent judgment on matters of significance; and, do not require advanced knowledge acquired by a prolonged course of specialized intellectual instruction.

38. Management never instructed Plaintiff, or the other similarly situated salaried employees performing non-exempt work, not to work before and after the scheduled shifts, through the lunch breaks or in the evenings or on the weekends.
39. Rather, management suffered and permitted Plaintiff and the other similarly situated salaried employees performing non-exempt work to work these extra hours at no additional cost to Defendant and for Defendant's pecuniary benefit.
40. Defendant also knew that Plaintiff and the other similarly situated salaried employees performing non-exempt work were working evenings and on the weekends because Defendant provided Plaintiff and the other similarly situated salaried employees with a company laptop, which was used at night and on the weekends, and/or suffered and permitted these employees to access Defendant's website from phones or personal devices for the benefit of Defendant.
41. Most of the time Plaintiff and the other similarly situated salaried employees performing non-exempt work were required, whether working at the office or away from the office, to log into Defendant's intranet portal.
42. The other similarly situated salaried employees performing non-exempt work (see ¶ 37), like Plaintiff, also used company-provided computers and software programs, or accessed Defendant's website from personal devices, to perform most of their duties.
43. On average, Plaintiff worked between 45 and 55 hours per week.
44. There were also numerous times when Plaintiff had to work in excess of 55 hours per week in order to complete her assigned work.
45. The other similarly situated salaried employees performing non-exempt work (see ¶ 37) also worked on average between 45 and 55 hours per week, sometimes far in excess of that during busy times of the year.

46. Defendant did not pay overtime compensation – at a premium rate or any other rate - to Plaintiff for any of the worktime in excess of 40 hours in any workweek.
47. Defendant did not pay overtime compensation – at a premium rate or any other rate – to the other similarly situated salaried employees performing non-exempt work.
48. Defendant did not compensate Plaintiff at one-and-one-half times her regular rate of pay for hours she worked in excess of forty hours in any workweek.
49. Defendant did not compensate the similarly situated salaried employees performing non-exempt work at one-and-one-half times their regular rate of pay.
50. Defendant did not pay Plaintiff for hours worked in excess of forty hours in any workweek because Defendant classified Plaintiff as “exempt” from the overtime requirements of the FLSA and PMWA.
51. Defendant classified Plaintiff as exempt based simply on the fact Plaintiff was paid a salary.
52. Defendant did not pay the similarly situated salaried employees performing non-exempt work any overtime pay or premium pay because Defendant classified these employees as exempt from the overtime requirements of the FLSA and PMWA.
53. Defendant classified the similarly situated salaried employees performing non-exempt work as exempt simply on the basis that the similarly situated employees were paid a salary.
54. The classification was incorrect.
55. Plaintiff was not exempt under any of the relevant white collar exemptions (professional, executive or administrative).
56. Plaintiff did not perform the duties or have the qualifications required under the white

collar exemptions (professional, executive or administrative).

57. The similarly situated salaried employees performing non-exempt work did not perform the duties or have the qualifications required under the white collar exemptions (professional, executive or administrative).
58. Defendant knew the classification was incorrect and knew its misclassification violated the FLSA.
59. In the alternative, Defendant acted in reckless disregard of and indifference toward the FLSA by failing to make good-faith effort to evaluate Plaintiff's job duties or the job duties of the similarly situated salaried employees performing non-exempt work vis-à-vis the FLSA's exemptions.
60. Plaintiff did not qualify for the executive exemption because she did not supervise other employees and did not have the authority to hire and fire employees.
61. Plaintiff did not qualify for the administrative exemption because her primary job duty did not include the exercise of discretion and independent judgment with respect to matters of significance.
62. Plaintiff did not qualify for the professional exemption because her primary job duty did not require her to have advanced knowledge acquired by a prolonged course of specialized intellectual instruction.
63. The similarly situated salaried employees performing non-exempt work did not qualify for the executive, administrative or professional exemptions for the same reasons Plaintiff did not: they did not supervise anyone, they did not as a primary duty exercise discretion and judgment with respect to matters of significance, and their primary duty did not require them to have advanced knowledge acquired by a prolonged course of specialized intellectual instruction.

64. Defendant also failed to maintain accurate records of the time worked by Plaintiff.
65. Defendant also failed to maintain accurate records of the time worked by the similarly situated salaried employees performing non-exempt work.
66. Plaintiff also has an individual claim for retaliation under the FLSA.
67. Beginning in or about September 2014 and continuing on a regular basis afterwards, Plaintiff complained about certain practices that are illegal under the FLSA.
68. Specifically, Plaintiff regularly raised concerns about the fact Defendant was simply classifying employees, such as herself and the other similarly situated salaried employees performing non-exempt work (see ¶ 37), as exempt because the employees were being paid a salary.
69. Plaintiff complained about these practices, and expressed her opinion the company was violating the FLSA, not only with respect to herself but the other similarly situated salaried employees performing non-exempt work (see ¶ 37) as well.
70. Plaintiff documented these complaints.
71. Notwithstanding these regular complaints Defendant refused to change the classification of certain salaried employees from exempt to non-exempt, or even conduct a good faith evaluation to determine if such a change were required.
72. Rather, on or about January 11, 2018, Plaintiff was terminated.
73. Management told Plaintiff she was being terminated because she was not reporting time correctly.
74. The alleged infraction concerned Plaintiff's taking and recording PTO.
75. The reason given for the termination was false.

- 76. Plaintiff complied fully with Defendant's protocols for PTO.
- 77. Even assuming Plaintiff had failed to record PTO correctly the alleged infraction did not rise to the level sufficient to be terminated.
- 78. The real reason for the termination was because of Plaintiff's regular complaints about the fact Defendant was classifying employees at Canonsburg as exempt simply because the employees were being paid a salary and that this policy violated the FLSA.
- 79. Defendant's policy of misclassifying Plaintiff and the other similarly situated salaried employees performing non-exempt work (see ¶ 37), not maintaining accurate time records and failing to pay overtime wages due in overtime workweeks were a violation of the FLSA and PMWA.
- 80. Defendant knowingly and intentionally violated the FLSA's explicit requirement at 29 U.S.C. §211(c) that it maintain accurate records of time worked, and at 29 U.S.C. §207(a) that it pay for overtime worked.
- 81. Defendant also knowingly and intentionally violated the FLSA's explicit prohibition against retaliation at 29 U.S.C. §215(a) with respect to Plaintiff.

Collective/Class Action Averments

- 82. Plaintiff incorporates by reference paragraphs 1-81, above.
- 83. In the past three years Defendant has employed more than 30+ individuals as salaried employees performing non-exempt work subject to the same policy of classifying them as exempt simply because they are salaried (see ¶ 37).
- 84. These salaried employees performing non-exempt work are subject to the same policy of classifying them as exempt based strictly on the basis of being paid a salary regardless of

the fact these employees perform non-exempt work.

85. These similarly situated salaried employees performing non-exempt work, like Plaintiff, have worked from the Canonsburg, PA, office since 2015 and have reported up to the same corporate management as Plaintiff.
86. These similarly situated salaried employees performing non-exempt work were also not paid overtime, like Plaintiff, and work a shift from 8:00 a.m. to 5:00 p.m. five days per week, with an assumed sixty-minute lunch break.
87. The similarly situated salaried employees performing non-exempt work, however, normally ate lunch while working at their desks.
88. The similarly situated salaried employees performing non-exempt work normally do not take a half-hour uninterrupted lunch break.
89. Management knew the similarly situated salaried employees performing non-exempt work rarely took an uninterrupted lunch break.
90. Management knew this from the personal observations and/or from the electronic records of the similarly situated salaried employees' work, e.g., phone records, e-mails, computer log records.
91. This means the similarly situated salaried employees performing non-exempt work normally work in excess of 40 hours each week if all they do is work the scheduled shifts (9 hours x 5 = 45 hours).
92. These similarly situated salaried employees performing non-exempt work are also regularly unable to complete their assigned duties, such as the paperwork, during their regularly scheduled shifts.
93. These similarly situated salaried employees performing non-exempt work, like Plaintiff,

regularly arrive early (preliminary work) and leave late (postliminary work) in order to complete their duties.

94. These similarly situated salaried employees performing non-exempt work, like Plaintiff, regularly work at home in the evenings and on weekends in order to complete their duties.
95. These similarly situated salaried employees performing non-exempt work use the same intranet portal to perform their job duties as does Plaintiff.
96. Management has known for at least the past three years that these similarly situated salaried employees performing non-exempt work regularly arrive at work and perform work before the start of their shift (preliminary work), work during the “lunch-breaks,” leave after the end of their shifts (postliminary work), and work at home or otherwise away from the office during the evenings and on the weekends.
97. These similarly situated salaried employees performing non-exempt work are paid an annual salary.
98. These similarly situated salaried employees performing non-exempt work, like Plaintiff, are also paid quarterly bonuses.
99. These bonuses, like the bonuses for Plaintiff, are non-discretionary bonuses within the meaning of the FLSA and PMWA.
100. These similarly situated salaried employees performing non-exempt work regularly work more than forty hours per week.
101. These similarly situated salaried employees performing non-exempt work do not receive overtime compensation either on their salaries or their bonuses.
102. Defendant has not compensated these salaried employees performing non-exempt work at

one-and-one-half times their regularly rates of pay for hours they worked in excess of forty hours in a single workweek.

103. Defendant has not paid these similarly situated salaried employees performing non-exempt work for hours worked in excess of forty hours because Defendant classified these similarly situated salaried employees performing non-exempt work as “exempt” from the overtime requirements of the FLSA.
104. These similarly situated salaried employees performing non-exempt work do not have as their primary duty work that includes the exercise of discretion and independent judgment with respect to matters of significance.
105. Rather, the primary duty of the similarly situated salaried employees performing non-exempt work mostly involves the application of well-established techniques, procedures or standards described in manuals and other sources provided by Aquatech to the salaried employees performing non-exempt work.
106. The primary duty of these similarly situated salaried employees performing non-exempt work also does not require advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction.
107. Rather, the similarly situated salaried employees performing non-exempt work generally are only required to acquire and apply knowledge about Aquatech’s products and services that is available from internal Aquatech documents (manuals, specifications, written updates), industry standards and generally accepted norms in the industry, and from inquiring with internal Aquatech sources.
108. These similarly situated salaried employees performing non-exempt work supervise no one.
109. These similarly situated salaried employees performing non-exempt work do not qualify for the executive, administrative, or professional exemptions of the FLSA or PMWA.

- 110. These similarly situated salaried employees performing non-exempt work are, and have been, non-exempt.
- 111. Defendant knew its policy of classifying the similarly situated salaried employees who perform non-exempt work as exempt simply because they were paid a salary was a violation of the FLSA and PMWA.
- 112. Defendant knew the classification was incorrect and knew its misclassification violated the FLSA and PMWA.
- 113. In the alternative, Defendant has acted in reckless disregard of and indifference toward the FLSA and PMWA by failing to make a good-faith effort to evaluate whether these similarly situated salaried employees' job duties satisfy the FLSA's exemptions.

COUNT I: VIOLATION OF THE FLSA
Individual and Collective Action

- 114. Plaintiff incorporates by reference paragraphs 1 through 113 of this complaint as though the same were more fully set forth herein.
- 115. Plaintiff and all other similarly situated salaried employees performing non-exempt work (see ¶ 37) are employees of Defendant within the meaning of the FLSA.
- 116. Defendant is an employer within the meaning of the FLSA.
- 117. Plaintiff and all other similarly situated salaried employees performing non-exempt work have been improperly classified as exempt from the overtime provisions of the FLSA.
- 118. Plaintiff and all other similarly situated salaried employees performing non-exempt work have been improperly classified as exempt from the overtime provisions of the FLSA since at least April 2015 as a result of the common policy of classifying them as exempt simply

because they are paid a salary.

119. Plaintiff and all other similarly situated salaried employees performing non-exempt work should have been classified as non-exempt from no later than April 2015 through the present.
120. Plaintiff and all other similarly situated salaried employees performing non-exempt work have regularly worked more than forty hours per week.
121. Defendant did not pay any overtime compensation, either on their salaries or bonuses, to Plaintiff and all other similarly situated salaried employees performing non-exempt work when they worked more than forty hours in workweeks since April 2015.
122. Defendant's failure to pay overtime to Plaintiff and all other similarly situated salaried employees performing non-exempt work has violated the FLSA.
123. For at least the past three years, Defendant's violations of the FLSA have been knowing, willful, and in reckless disregard of the FLSA's overtime requirements.
124. Plaintiff and all other similarly situated salaried employees performing non-exempt work are entitled to recover from Defendant the overtime pay improperly withheld by Defendant, plus interest, attorneys' fees, and costs.
125. Plaintiff and all other similarly situated salaried employees performing non-exempt work are also entitled to recover liquidated damages.

COUNT II: VIOLATION OF THE PMWA
Individual and Class Action

126. Plaintiff incorporates by reference paragraphs 1 through 125 of this complaint as though the same were more fully set forth herein.

127. Plaintiff and all other similarly situated salaried employees performing non-exempt work (see ¶ 37) are employees of Defendant within the meaning of the PMWA.
128. Defendant is an employer within the meaning of the PMWA.
129. Plaintiff and all other similarly situated salaried employees performing non-exempt work have been improperly classified as exempt from the overtime provisions of the PMWA since at least April 2015 as a result of the common policy of classifying them as exempt simply because they are paid a salary.
130. Plaintiff and all other similarly situated salaried employees performing non-exempt work should have been classified as non-exempt since at least April 2015 through the present.
131. Plaintiff and all other similarly situated salaried employees performing non-exempt work have regularly worked more than forty hours per week.
132. Defendant has not paid overtime compensation to Plaintiff and all other similarly situated salaried employees performing non-exempt work when they worked more than forty hours in workweeks since April 2015.
133. Defendant's failure to pay overtime to Plaintiff and all other similarly situated salaried employees performing non-exempt work has violated the PMWA.
134. For at least the past three years, Defendant's violations of the PMWA have been knowing, willful, and in reckless disregard of the PMWA's overtime requirements.
135. Plaintiff and all others similarly situated salaried employees performing non-exempt work are entitled to recover from Defendant the overtime pay improperly withheld by Defendant, plus interest, attorneys' fees, and costs.

COUNT III: VIOLATION OF THE FLSA (Retaliation)
Individual

136. Plaintiff incorporates by reference paragraphs 1 through 135 of this complaint as though the same were more fully set forth herein.
137. Plaintiff is an employee of Defendant within the meaning of the FLSA.
138. Defendant is an employer within the meaning of the FLSA.
139. Plaintiff engaged in a protected activity: complained about the fact Defendant had a policy of classifying employees as exempt simply because the employees were being paid a salary and that, in fact, certain employees (the similarly situated salaried employees performing non-exempt work in this matter) were non-exempt.
140. Plaintiff suffered an adverse action following the protected acts (termination).
141. There is a causal connection between the protected acts and the adverse employment action.
142. There is no bona fide business reason for the adverse action.
143. Defendant's retaliation against Plaintiff is in violation of the FLSA.
144. Defendant's violation of the FLSA is knowing, willful, and in reckless disregard of the FLSA.
145. Plaintiff is entitled to recover from Defendant the value of the lost wages, benefits, pre-judgment and post-judgment interest, compensatory damages, attorneys' fees, and costs.
146. Plaintiff is also entitled to recover liquidated damages under 29 U.S.C. §§ 207(a) & 216(b).

PRAYER FOR RELIEF

147. WHEREFORE, Plaintiff and all other similarly situated salaried employees performing non-exempt work subject to the common policy of classifying them as exempt simply because they were paid a salary (see ¶ 37) respectfully request that this Court:
- A. order Defendant to pay compensatory damages equal to the unpaid overtime compensation owed to Plaintiff and all other similarly situated salaried employees performing non-exempt work;
 - B. order Defendant to pay liquidated damages to Plaintiff and all other similarly situated salaried employees performing non-exempt work;
 - C. order Defendant to pay pre- and post-judgment interest as well as the litigation costs and reasonable attorneys' fees incurred by Plaintiff and all other similarly situated salaried employees performing non-exempt work; and
 - D. grant such further relief as the Court deems necessary and proper.

Respectfully submitted,

s/Joseph H. Chivers
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*Counsel for Plaintiff
and all others similarly situated*

Dated: April 11, 2018

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

Jill Ferguson, on behalf of herself and similarly situated employees
425 Johnston Road, Upper St. Clair, PA 15241

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

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

Joseph H. Chivers, Esq./The Employment Rights Group
100 First Avenue, Suite 650, Pittsburgh, PA 15222 (412) 227-0763

DEFENDANTS

Aquatech International LLC
One Four Coins Drive, Canonsburg, PA 15317

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

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

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

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

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <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)

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 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"/> 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 Property Damage <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 <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			

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):

Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. § 207(a)

Brief description of cause:

Collective/Class Action to recover overtime under the FLSA/PMWA; Individual Action for Retaliation under the FLSA

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

04/11/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/Joseph H. Chivers

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

JS 44A REVISED June, 2009
IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA
THIS CASE DESIGNATION SHEET MUST BE COMPLETED

PART A

This case belongs on the (☐ Erie ☐ Johnstown ☒ Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venang or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.

PART B (You are to check ONE of the following)

1. ☐ This case is related to Number _____. Short Caption _____
2. ☒ This case is not related to a pending or terminated case.

DEFINITIONS OF RELATED CASES:

CIVIL: Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit **EMINENT DOMAIN:** Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

HABEAS CORPUS & CIVIL RIGHTS: All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

PART C

I. CIVIL CATEGORY (Select the applicable category).

1. ☐ Antitrust and Securities Act Cases
2. ☐ Labor-Management Relations
3. ☐ Habeas corpus
4. ☐ Civil Rights
5. ☐ Patent, Copyright, and Trademark
6. ☐ Eminent Domain
7. ☒ All other federal question cases
8. ☐ All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9. ☐ Insurance indemnity, contract and other diversity cases.
10. ☐ Government Collection Cases (shall include HEW Student Loans (Education), V A Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

/s/ Joseph H. Chivers

Date: 4/11/18

ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH FORMS MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

for the

Civil Action No.

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Fmr. Payroll Specialist Claims Aquatech International Owes Unpaid Wages to Misclassified Employees](#)
