

Peter Winebrake (80496)
 Deirdre A. Aaron (323389)
 Winebrake & Santillo, LLC
 715 Twining Road, Suite 211
 Dresher, PA 19025
 (215) 884-2491



Additional Counsel Listed on Signature Page

<hr/> <p>STEVEN KAPLAN, on behalf of himself and others similarly situated,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>FEDEX GROUND PACKAGE SYSTEM, INC.,</p> <p style="text-align: right;">Defendant.</p> <hr/>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p>PHILADELPHIA COUNTY COURT OF COMMON PLEAS</p> <p>FILED ELECTRONICALLY ON NOVEMBER 7, 2023</p> <p>CLASS ACTION</p> <p>JURY TRIAL DEMANDED</p>
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COMPLAINT – CLASS ACTION
10- Contract: Other

NOTICE	AVISO
<p>You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. <i>You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.</i></p> <p style="text-align: center;">Philadelphia Bar Association Lawyer Referral and Information Service 1101 Market Street, 11th Floor Philadelphia, Pennsylvania 19107 (215) 238-1701</p>	<p>Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta ascantar un comparencia escrita o en persona o con un abogado y entrega a la corte en forma escrita sus defensas o sus objeciones a la demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, la corte puede decidir a favor del demandante requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted. <i>Lleve esta demanda a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio Vaya en persona o llame por telefono a la oficina cuya direccion se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.</i></p> <p style="text-align: center;">Asociacion De Licenciados De Filadelfia Servicio De Referencia E Informacion Legal 1101 Market Street, 11th Floor Filadelfia, Pennsylvania 19107 (215) 238-1701</p>

COMPLAINT – CLASS ACTION

Steven Kaplan (“Plaintiff”) brings this class action lawsuit against FedEx Ground Package System, Inc. (“Defendant”), seeking all available relief under the Pennsylvania Minimum Wage Act (“PMWA”), 43 P.S. §§ 333.101, *et seq.* As indicated herein, Plaintiff alleges that Defendant has violated the PMWA by failing to pay wages for time associated with various work activities arising at the beginning and end of the workday:¹

JURISDICTION AND VENUE

1. This Court has personal jurisdiction over Defendant. Moreover, the injuries resulting from Defendant’s conduct, as alleged herein, were incurred in Pennsylvania.

2. Venue in this Court is proper under Pennsylvania Rules of Civil Procedure 1006 and 2179 because Defendant conducts extensive business in Philadelphia County. Based on the undersigned counsel’s investigation and without the benefit of discovery, such business includes, *inter alia*, the delivery of packages to thousands of Philadelphia customers, the direct employment of workers in Philadelphia, contractual relationships with various businesses located in Philadelphia, and the operation of various properties in Philadelphia.

PARTIES

3. Plaintiff is an individual residing in Harrisburg, PA (Dauphin County).

4. Defendant is a corporation headquartered at 1000 Fed Ex Drive, Moon Township, PA 15108 (Allegheny County).

¹ The undersigned counsel’s investigation has located no other class actions filed asserting the same or similar factual allegations against Defendant on behalf of the same or other persons during the prior three-year period.

FACTS

5. Defendant “is a leading North American provider of small-package ground delivery services.”² It “provides seven-day-per-week residential delivery to virtually all of the U.S. population.”³

6. To support its package delivery services, Defendant operates hundreds of “sortation and distribution facilities” throughout the United States.⁴

7. Many of Defendant’s sortation and distribution facilities are located in Pennsylvania. For example, Defendant’s current website advertises open job postings at the following Pennsylvania facilities: Auburn, Breinigsville, Bridgeport, Clinton, Dubois, Duncansville, Exton, Fairview, Franklin, Hunker, Lewisberry, Middletown, Muncy, Newville, North Wales, Northampton, Phoenixville, Pittsburgh, Pittston, Reading, and Zelmanople.

8. At the Pennsylvania facilities, Defendant employs workers who are paid an hourly wage and hold the job titles of Package Handler and Seasonal Package Handler (collectively “Package Handler”). According to Defendant’s standardized job description, all Pennsylvania Package Handlers – regardless of the facility’s location – perform “[w]arehouse duties” that “include loading, unloading, and sorting of packages of various sizes.”

9. From approximately January 2020 until approximately September 2023, Plaintiff was employed by Defendant as a Package Handler at the Lewisberry facility, which is located at 501 Industrial Drive, Lewisberry, PA 17339. As such, the allegations in paragraphs 10-14 below are based on Plaintiff’s observations and experience at the Lewisberry facility.

² FedEx Corporation’s Annual Report (a.k.a. Form 10-K Report) for the Fiscal Year ended May 31, 2022 at p. 3.

³ *Id.* at p. 15.

⁴ *Id.* at p. 15

10. Plaintiff, like other Package Handlers, was paid an hourly wage and performed the duties of “loading, unloading, and sorting” packages.

11. Plaintiff, like many other Package Handlers, sometimes worked over 40 hours per week. Plaintiff does not currently have access to the timekeeping and payroll records that FedEx maintained regarding his employment. However, Plaintiff believes that such records will confirm that he worked over 40 hours – and, sometimes, over 50 hours – during various weeks since November 7, 2020.

12. At the beginning of each shift, Defendant required Plaintiff and other Package Handlers to perform the following mandatory activities *before* they clocked-in for payroll purposes at timekeeping devices located near their assigned work location: (i) waiting for and undergoing COVID screenings inside a building located on Defendant’s premises;⁵ (ii) waiting for and undergoing security screenings inside a building located on Defendant’s premises; (iii) walking on Defendant’s premises from the screening building to the warehouse; and (iv) walking within the warehouse to the timekeeping device.

13. At the end of each shift, Defendant required Plaintiff and other Package Handlers to perform the following mandatory activities *after* they clocked-out for payroll purposes at timekeeping devices located near their assigned work location: (i) walking within the warehouse from the timekeeping device to the warehouse exit; (ii) walking on Defendant’s premises from the warehouse to the screening building; and (iii) waiting for and undergoing anti-theft security screenings inside the screening building.

14. In calculating the wages owed to Plaintiff and other Package Handlers, Defendant

⁵ The COVID screenings are no longer required. But they were required during much of the relevant time period after November 7, 2023.

does not award payroll credit for all time associated with the mandatory pre-shift and post-shift activities summarized in paragraphs 12-13 above. As such, during weeks in which Plaintiff and other Package Handlers worked over 40 hours, Defendant failed to pay overtime wages for all time associated with such activities.

CLASS ALLEGATIONS

15. Plaintiff brings this lawsuit as a class action on behalf of all individuals who, during at least one week since November 7, 2020, have been (i) employed by Defendant *in any Pennsylvania facility* in the job title of Package Handler, Seasonal Package Handler, or any similar hourly position entailing the loading, unloading, and sorting of packages and (ii) credited with working over 40 hours. Alternatively, Plaintiff brings this lawsuit as a class action on behalf of all individuals who, during at least one week since November 7, 2020, have been (i) employed by Defendant *in the Lewisberry, PA facility* in the job title of Package Handler, Seasonal Package Handler, or any other similar position entailing the loading, unloading, and sorting of packages and (ii) credited with working over 40 hours. Upon information and belief, over two-thirds of the members of the class and alternative subclass described above are citizens of Pennsylvania.

16. This action may be properly maintained as a class action pursuant to Pennsylvania Rules of Civil Procedure 1702, 1708, and 1709. Class action treatment of Plaintiff's PMWA claim is appropriate because, as alleged below, all of Pennsylvania's class action requisites are satisfied.

17. The class, upon information and belief, includes hundreds of individuals, all of whom are readily ascertainable based on standard business records and are so numerous that joinder of all class members is impracticable.

18. Plaintiff is a class member, his claims are typical of the claims of other class members, and he has no interests that are antagonistic to or in conflict with the interests of other class members.

19. Plaintiff and his lawyers will fairly and adequately represent the class members and their interests because, *inter alia*, (a) Plaintiff is represented by experienced counsel who are prepared to vigorously and competently litigate this action on behalf of the class; (b) Plaintiff and his counsel are free of any conflicts of interest that prevent them from pursuing this action on behalf of the class; and (c) Plaintiff and his counsel have adequate financial resources to assure that the interests of the class will not be harmed.

20. Questions of law and fact are common to all class members, because, *inter alia*, this action concerns Defendant's common timekeeping, payroll, and compensation policies, as described herein. The legality of these policies will be determined through the application of generally applicable PMWA principles to common facts.

21. A class action provides a fair and efficient method for adjudication of the controversy because, *inter alia*, the previously mentioned common questions of law and fact predominate over any questions affecting Plaintiff or any individual class member; the monetary damages sought are readily calculable and attributable to class members; and class litigation protects against the risk of inconsistent or varying adjudications that might result if individual class members pursued individual actions in multiple courthouses.

22. Because Defendant conducts business in Philadelphia County, this Court – which has well-established procedures and protocols for overseeing class litigation – is an appropriate forum for litigating of the claims of the entire class.

23. The complexities of the issues and the expense of litigating separate claims of

individual class members weigh in favor of class certification. For example, in the instant action, Plaintiff will seek and present evidence concerning Defendant's common compensation policies and practices. The gathering and presentation of such evidence in multiple proceedings would be inefficient, redundant, and unjustifiably expensive. The class action device, when compared to multiple proceedings, presents fewer management difficulties and provides the benefits of unitary adjudication, economies of scale, and comprehensive supervision by a single court. Concentrating this litigation in one forum promotes judicial economy and efficiency and promotes parity among the claims of individual class members as well as judicial consistency. Thus, the conduct of this action as a class action conserves the resources of the parties and the court system, protects the rights of each class member, and meets all due process requirements as to fairness to Defendant.

COUNT I

24. All previous paragraphs are incorporated as though fully set forth herein.
25. Defendant is an employer covered by the PMWA's mandates.
26. Plaintiff and the class members are employees entitled to the PMWA's protections.
27. The PMWA entitles employees to compensation for "all hours worked" in a workweek. *See* 43 P.S. § 333.104(a). Such compensable time includes, *inter alia*, all "time during which an employee is required by the employer to be on the premises of the employer," *id.*, and must be paid "regardless of whether the employee is actually performing job-related duties while on the premises," *Heimbach v. Amazon.com, Inc.*, 255 A.3d 191, 204 (Pa. 2021). The time associated with the mandatory pre-shift and post-shift activities summarized in paragraphs 12-13 above exemplify the types of compensable time covered by the PMWA. *See*

id.

28. The PMWA requires that employees receive overtime compensation “not less than one and one-half times” the employee’s regular rate of pay for all hours worked over 40 per week. *See* 43 P.S. § 333.104(c).

29. Defendant violated the PMWA by failing to pay Plaintiff and other class members overtime wages for all time associated with the mandatory pre-shift and post-shift activities summarized in paragraphs 12-13 above.

JURY DEMAND

Plaintiff demands a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and the class, seeks the following relief:

(i) unpaid overtime wages; (ii) prejudgment interest; (iii) litigation costs, expenses, and attorney’s fees; and (iv) any other relief this Court deems just and proper.

Date: November 7, 2023

Respectfully submitted,



Peter Winebrake (80496)
Deirdre A. Aaron (323389)
Winebrake & Santillo, LLC
715 Twining Road, Suite 211
Dresher, PA 19025
(215) 884-2491

Sarah R. Schalman-Bergen (206211)
Krysten Connon (314190)
Lichten & Liss-Riordan, P.C.
729 Boylston Street, Suite 2000
Boston, MA 02116
(267) 256-9973

Plaintiff’s Counsel

VERIFICATION

I, Steven Kaplan, hereby state:

1. I am a plaintiff in this action;
2. I verify that the statements made in the accompanying complaint are true and correct to the best of my knowledge information and belief; and
3. I understand that the statements in the complaint are subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

11/07/2023

Date

Steven Kaplan

Signature

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [FedEx Ground Warehouse Employees Owed Overtime for Duties Outside Shifts, Class Action Says](#)
