

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

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	:
BEN ROOD,	: Civil Action No. _____
on behalf of himself and	:
similarly situated employees,	:
	: INDIVIDUAL AND
<i>Plaintiff,</i>	: COLLECTIVE/CLASS
	: ACTION COMPLAINT
v.	:
	:
R&R EXPRESS, INC.,	: Jury Trial Demanded
	:
<i>Defendant.</i>	: Electronically Filed
	:
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INDIVIDUAL AND COLLECTIVE/CLASS ACTION COMPLAINT
Nature of the Action, Jurisdiction, and Venue

1. This is an individual and collective/class action under the Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. §§ 207(a) & 216(b), the Pennsylvania Minimum Wage Act (PMWA), 43 P.S. §§ 333.104(c) & 333.113, and the Pennsylvania Wage Payment and Collection Law (WPCL), 43 P.S. § 260.3, to recover damages for non-payment of wages.
2. Jurisdiction of this court is invoked under 28 U.S.C. § 1331 and, for the supplemental state claims, 28 U.S.C. § 1367(a).
3. The actions and policies alleged to be unlawful were committed in whole or in part around Pittsburgh, PA, where Plaintiff worked for Defendant. This action is within the jurisdiction of, and venue is proper in, the United States District Court for the Western District of Pennsylvania.

Parties

4. **Plaintiff Ben Rood** resides at 115 Thermon Avenue, Glenshaw, PA 15116. Plaintiff worked for Defendant R&R Express, Inc., as a “Logistics Coordinator” from on or about May 31, 2016, until on or about September 12, 2017.
5. Plaintiff regularly performed work within the state of Pennsylvania.
6. **Defendant R&R Express, Inc.**, a Pennsylvania corporation, is a common carrier and engaged in the business of freight brokerage, and provides transportation and logistics solutions throughout the United States and internationally. Defendant maintains its headquarters at #3 Crafton Square, Pittsburgh, PA 15205.
7. At all relevant times Defendant has been an enterprise engaged in interstate commerce with annual revenues in excess of \$500,000 and has employees engaged in interstate commerce and the production of goods in interstate commerce and has been subject to the provisions of Section 203(s)(1) of the FLSA.
8. Defendant is headquartered in Pennsylvania and has regularly employed individuals in the state of Pennsylvania, including Plaintiff, in the performance of work on behalf of Defendant and is, therefore, subject to the provisions of the PMWA and the WPCL.

Statement of Claims

9. Defendant hired Plaintiff on or about May 31, 2016.
10. Plaintiff held the title of Logistics Coordinator.
11. Plaintiff was a W-2 employee.
12. Plaintiff was an employee within the meaning of the FLSA and PMWA.

13. Plaintiff's last day of work for Defendant was September 12, 2017.
14. According to Defendant's website shiprrex.com, R&R is a logistics company that has provided "end-to-end logistics solutions for over 30 years."
15. Defendant uses a combination of its own truck assets and contracted carriers to move "hundreds of thousands of shipments per year" for its customers.
16. As noted in par. 6, above, Defendant is a common carrier and engaged in the business of freight brokerage.
17. Defendant has annual revenues in excess of \$75MM.
18. Defendant provides its services to industries throughout the contiguous United States.
19. Defendant employs in excess of 500 full time employees.
20. Plaintiff initially reported to work at the Crafton, PA, office.
21. He was required to report to work by 8:00 a.m. at the office and continue to work at the office until no earlier than 5:00 p.m., 5 days per week.
22. After a few months Plaintiff was transferred to Defendant's Greentree, PA, office.
23. The minimum schedule in the office at Greentree was the same as at the Crafton, PA, office: 8:00 a.m. to 5:00 p.m.
24. In about February 2017, Plaintiff was transferred to Defendant's Carnegie, PA, office, with the same minimum hours at the office: 8:00 a.m. to 5:00 p.m.
25. Plaintiff's duties were the same regardless of the office: perform as a Logistics Coordinator.
26. The Logistics Coordinators report to and perform their duties at various offices of Defendant, including the offices in Pennsylvania where Plaintiff worked, other offices in

Pennsylvania, and other offices in other states.

27. There are at least 100 other Logistics Coordinators who have been employed by Defendant since September 2014 (three years prior to the filing of this Complaint).
28. The other Logistics Coordinators have performed the same primary duties as Plaintiff.
29. The other Logistics Coordinators have been W-2 employees.
30. The other Logistics Coordinators have been employees within the meaning of the FLSA and PMWA.
31. Specifically, Plaintiff and the other Logistics Coordinators are responsible for arranging logistics support (freight brokerage) for industries throughout the contiguous United States.
32. This requires identifying past customers, or potential customers, with shipping needs and persuading these customers to allow Defendant to make the arrangements for the movement of the customer's goods.
33. The vast majority of the shipping arrangements made by Plaintiff and the other Logistics Coordinators are made through contract carriers.
34. In effect, R&R, through its Logistics Coordinators, provides a brokerage service.
35. Plaintiff was told when he was first hired that he would be paid \$800 per week for the first 90 days.
36. After the first 90 days, according to Defendant, Plaintiff would then be evaluated to see if he would be moved to the "next step" of Defendant's program.
37. Plaintiff was told the "next step" would be to be a "Logistics Coordinator" and be placed on 100% commission.
38. In actuality Plaintiff performed the duties of a Logistics Coordinator from the first day he

reported to work.

39. Plaintiff performed productive work from the first day he started to work for Defendant.
40. Specifically, Plaintiff made arrangements for the movement of the customer's goods, and continued to perform this productive work throughout the period of time he was paid \$800 per week.
41. Plaintiff was not put on commission after 90 days, however.
42. Rather, Plaintiff continued to be paid \$800 per week until on or about February 1, 2017.
43. Throughout this time (from May 2016 until on or about February 1, 2017) Plaintiff worked more than 40 hours in most if not all workweeks.
44. Plaintiff worked on average some 43 to 45 hours per week in the office (net of any breaks of 20 minutes or more) and, on average, an additional 3 to 5 hours per week from home.
45. The work from home was required in order for Plaintiff to answer phone calls/texts/emails from customers and management, and otherwise perform the duties of a Logistics Coordinator.
46. Management was aware of the work performed by Plaintiff from home: management was normally copied on emails that showed the times Plaintiff was working and communicated directly with Plaintiff via phone and/or email after hours.
47. Plaintiff was not paid anything for the overtime hours (a total of 6 to 10 hours on average per week), not at the straight rate or overtime rate.
48. In or about August 2016 Plaintiff was informed by Defendant that when he was placed on commission he would have to "repay" the \$800/week he had been receiving.
49. Defendant referred to this repayment as a "deficit."
50. Defendant had not told Plaintiff at or before he started to work in May 2016 that any

repayment of a “deficit” would be required.

51. Plaintiff had never agreed to this condition: repayment of a “deficit.”
52. Plaintiff never would have agreed to such a condition.
53. In effect such a condition would result in Plaintiff not being paid for all hours worked during the period he was being paid \$800/week.
54. It would also mean Plaintiff would not be paid the amount promised (\$800/week).
55. It would also mean that as the “deficit” was being taken from his earnings after he went on straight commissions that he was not being paid for all non-overtime hours at the promised rate.
56. On or about February 1, 2017, Plaintiff’s pay was converted from \$800/week to straight commission.
57. Defendant told Plaintiff he would be paid 40% of the margin between the amount paid by the customer for the shipment and the amount BR&R paid to the contractor making the shipment.
58. However, Defendant told Plaintiff that 5% of the margin (which amounts to 12 ½% of the commission) would be taken by R&R to repay the “deficit.”
59. A 40% commission is the standard commission paid by R&R to its Logistics Coordinators.
60. Defendant told Plaintiff the “deficit” was around \$17,000.
61. From February 1, 2017, until on or about September 12, 2017, Plaintiff was on straight commissions.
62. During that time Defendant withheld the 5% of the margin (12 ½% of the commission) from each paycheck (bi-weekly) for repayment of the “deficit.”

63. By September 12, 2017, Plaintiff's "deficit" was about \$8,000, meaning Defendant withheld some \$9,000 of Plaintiff's commissions during that time.
64. Plaintiff agreed at the commencement of his employment to work for \$800 per week until he was placed on commissions.
65. Plaintiff never agreed to repay a "deficit."
66. Plaintiff did not agree to the withholding of 5% of the margin (12 ½% of the commission) for repayment of the "deficit."
67. Plaintiff was non-exempt under the FLSA and the PMWA.
68. Plaintiff regularly worked more than 40 hours in workweeks.
69. Plaintiff was entitled to payment of overtime at one-and-one-half times his regular rate of pay for the hours worked in excess of forty hours in workweeks.
70. Defendant paid no overtime to Plaintiff, either at the straight rate or overtime rate.
71. Defendant knowingly and intentionally violated the FLSA's mandate for overtime pay. 29 U.S.C. § 207.
72. Defendant also failed to maintain accurate records of time worked by Plaintiff.
73. 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.
74. Defendant's violation of the FLSA and PMWA has been knowing, willful and in reckless disregard when it failed to pay Plaintiff at the overtime rate for those hours. Defendant has acted willfully and in reckless disregard of the FLSA and the PMWA.

Collective/Class Action Averments

75. In the past three years Defendant has employed 100+ Logistics Coordinators.
76. In the past three years Defendant has employed 30+ individuals as Logistics Coordinators who have performed work on behalf of Defendant in Pennsylvania.
77. These other Logistics Coordinators perform the same primary job duties as Plaintiff: provide logistics brokerage services to R&R's customers.
78. These Logistics Coordinators, like Plaintiff, have been assigned productive work, and have performed productive work, since the start of their employment.
79. Specifically, the Logistics Coordinators, like Plaintiff, make arrangements for the movement of the customer's goods, and continue to perform this productive work throughout the period of time they are paid a fixed weekly amount as well as when they are paid commissions.
80. These Logistics Coordinators have been hired and paid according to the same terms as Plaintiff: a fixed weekly amount (like \$800) for a period of time, typically 90 to 180 days; then, straight commissions.
81. Defendant promises to pay the Logistics Coordinators commissions, typically 40% of the margin between the amount paid by the customer for the shipment and the amount R&R pays to the contractor making the shipment.
82. However, Defendant withholds a certain percentage of these commissions, typically 5% of the margin (which amounts to 12 ½% of the commission) in order to repay the "deficit" from the period when the Logistics Coordinators are paid a fixed weekly amount (like the \$800/week paid to Plaintiff).

83. A 40% commission is the standard commission paid by R&R to its Logistics Coordinators.
84. The Logistics Coordinators agree at the commencement of their employment to work for a certain amount per week (\$800) until they are placed on commissions.
85. The Logistics Coordinators do not agree to repay a “deficit.”
86. Even if such an agreement were made between the Logistics Coordinators and R&R such an agreement would violate the FLSA and PMWA: parties cannot agree to waive the minimum wage and overtime protections of the FLSA/PMWA.
87. The Logistics Coordinators do not agree to the withholding of 5% of the margin (12 ½% of the commission) for repayment of the “deficit.”
88. Logistics Coordinators work out of Defendant’s Pittsburgh, PA, office and elsewhere in the United States.
89. Logistics Coordinators are paid a weekly amount during their initial period of employment, and then commissions only.
90. Logistics Coordinators regularly work more than forty hours per week.
91. This work is performed, like Plaintiff, from the office and from home.
92. Defendant fails to maintain accurate records of time worked for the Logistics Coordinators.
93. Defendant does not pay the Logistics Coordinators overtime pay for hours worked in excess of forty hours.
94. The Logistics Coordinators employed by Defendant over the past three years, nationally

as well as in Pennsylvania, have been subject to the same pay policies as Plaintiff (see Par. 34-37, 46-48, 51-58, above).

95. The 100+ Logistics Coordinators employed by Defendant nationally (which includes the PA Logistics Coordinators) over the past three years have regularly worked overtime.
96. Defendant has knowingly and intentionally failed to pay the 100+ Logistics Coordinators for their overtime hours either at the straight rate or proper overtime rate.
97. The 100+ Logistics Coordinators have been non-exempt within the meaning of the FLSA.
98. The 30+ Logistics Coordinators in PA have been non-exempt within the meaning of the PMWA.
99. Defendant's failure to pay overtime due to the 100+ Logistics Coordinators employed by Defendant over the past three years, and its failure to maintain accurate records of time worked, has been in violation of the FLSA and the PMWA.
100. Defendant has knowingly and intentionally violated the FLSA and PMWA with respect to the failure to pay overtime and failure to maintain accurate time records.

COUNT I: VIOLATION OF THE FLSA
Individual and Collective Action (National)

101. Plaintiff incorporates by reference the preceding paragraphs of this complaint.
102. Plaintiff and all other similarly situated Logistics Coordinators are employees of Defendant within the meaning of the FLSA.
103. Defendant is an employer within the meaning of the FLSA.

104. Plaintiff and all other similarly situated Logistics Coordinators have been compensated initially on a fixed weekly amount and then on a straight commission basis.
105. Plaintiff and all other similarly situated Logistics Coordinators have regularly worked more than forty hours per week.
106. Defendant has not paid overtime compensation to Plaintiff and all other similarly situated Logistics Coordinators for work of more than forty hours in workweeks.
107. Defendant has not paid overtime compensation to Plaintiff and all other similarly situated Logistics Coordinators at the proper overtime rate.
108. Defendant has failed to pay Plaintiff and all other similarly situated Logistics Coordinators for hours worked in overtime weeks at the promised rate.
109. Defendant has failed to maintain accurate records of time worked for Plaintiff and all other similarly situated Logistics Coordinators.
110. Plaintiff and the other similarly situated Logistics Coordinators have been non-exempt within the meaning of the FLSA.
111. Defendant's failure to pay overtime at the proper rate to the Logistics Coordinators has violated and continues to violate the FLSA.
112. For at least the past three years, Defendant's violations of the FLSA are knowing, willful, and in reckless disregard of the FLSA's overtime requirements.
113. Plaintiff and all other similarly situated Logistics Coordinators are entitled to recover from Defendant the overtime pay improperly withheld by Defendant, plus interest, attorneys' fees, and costs.

114. Plaintiff and all other similarly situated Logistics Coordinators are also entitled to recover liquidated damages under 29 U.S.C. §§ 207(a) & 216(b).

COUNT II: VIOLATION OF THE PMWA
Individual and Class Action (Pennsylvania)

115. Plaintiff incorporates by reference the preceding paragraphs of this complaint.

116. Plaintiff and all other similarly situated Logistics Coordinators in Pennsylvania are employees of Defendant within the meaning of the PMWA.

117. Defendant is an employer within the meaning of the PMWA.

118. Plaintiff and all other similarly situated Logistics Coordinators have been compensated initially on a fixed weekly amount and then on a straight commission basis.

119. Plaintiff and all other similarly situated Logistics Coordinators have regularly worked more than forty hours per week.

120. Defendant has not paid overtime compensation to Plaintiff and all other similarly situated Logistics Coordinators for work of more than forty hours in workweeks.

121. Defendant has not paid overtime compensation to Plaintiff and all other similarly situated Logistics Coordinators at the proper overtime rate.

122. Defendant has failed to pay Plaintiff and all other similarly situated Logistics Coordinators for hours worked in overtime weeks at the promised rate.

123. Plaintiff and all other similarly situated Logistics Coordinators are non-exempt within the meaning of the PMWA.

124. Defendant's failure to pay overtime to Plaintiff and similarly situated Logistics

Coordinators employed in Pennsylvania violates the PMWA.

125. Defendant's failure to maintain accurate records of time worked for Plaintiff and similarly situated employees employed in Pennsylvania violates the PMWA.
126. Plaintiff and similarly situated Logistics Coordinators employed in Pennsylvania are entitled to recover from Defendant the overtime pay improperly withheld by Defendant, plus interest, attorneys' fees, and costs.

COUNT III: BREACH OF CONTRACT
Individual and Class Action (Pennsylvania)

127. Plaintiff hereby incorporates by reference the preceding paragraphs of this complaint.
128. When Defendant hired Plaintiff and the other PA Logistics Coordinators Defendant made definite, clear promises to pay a specific amount per week for all work performed for Defendant for a certain period of time.
129. Those promises created enforceable contractual obligations.
130. Plaintiff and the other PA Logistics Coordinators provided consideration for those promises by promising to deliver and actually delivering valuable services to Defendant.
131. Despite its contractual obligation to compensate Plaintiff and the other PA Logistics Coordinators for work performed at a fixed weekly amount, Defendant breached those contractual obligations when it withheld Plaintiff's and the other PA Logistics Coordinators' pay when converted to commissions in order to "repay" compensation received during the period when the Logistics Coordinators were being paid weekly.
132. The amount owed to Plaintiff and the other PA Logistics Coordinators represents wages.
133. Defendant did not have any good-faith basis on which to withhold the wages.

134. As a result of Defendant's breaches, Plaintiff and the other PA Logistics Coordinators have been denied the benefit of the bargain, and have suffered substantial damages in the form of unpaid wages.
135. Plaintiff and the other PA Logistics Coordinators are entitled to damages commensurate with the unpaid wages, plus interest, plus compensatory damages resulting from the breach.

COUNT IV: VIOLATION OF THE WPCL
Individual and Class Action (Pennsylvania)

136. Plaintiff hereby incorporates by reference the preceding paragraphs of this complaint.
137. Defendant's contractual obligation to pay Plaintiff and the other PA Logistics Coordinators for hours worked each week at an agreed upon amount created obligations under the WPCL, 43 P.S. § 260.1 *et seq.*
138. The compensation Defendant failed to pay to Plaintiff and the other PA Logistics Coordinators for hours worked constitute wages within the meaning of the WPCL.
139. Defendant violated the WPCL by failing to pay the promised wages for work Plaintiff and the other PA Logistics Coordinators performed.
140. Defendant did not have any good-faith basis for withholding the promised wages.
141. Plaintiff and the other PA Logistics Coordinators are entitled to unpaid wages as well as statutory penalties (25% of unpaid wages), pre-judgment and post-judgment interest, attorneys' fees, and costs.

PRAAYER FOR RELIEF

142. WHEREFORE, Plaintiff and all others similarly situated respectfully request that this Court:
- A. Order Defendant to pay the unpaid overtime compensation owed to Plaintiff and all other similarly situated Logistics Coordinators (nationally);
 - B. Order Defendant to pay liquidated damages to Plaintiff and all other similarly situated Logistics Coordinators (nationally);
 - C. Order Defendant to pay Plaintiff and the other PA Logistics Coordinators for unpaid non-overtime wages;
 - D. 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 Logistics Coordinators (nationally); and
 - E. 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: September 18, 2017

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.)

<p>I. (a) PLAINTIFFS BEN ROOD, on behalf of himself and similarly situated employees 115 Thermon Avenue, Glenshaw, PA 15116</p> <p>(b) County of Residence of First Listed Plaintiff Allegheny <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys <i>(Firm Name, Address, and Telephone Number)</i> Joseph H. Chivers, Esq., 100 First Avenue, Suite 650 Pittsburgh, PA 15222 (412) 227-0763</p>	<p>DEFENDANTS R&R EXPRESS, INC. #3 Crafton Square, Pittsburgh, PA 15205</p> <p>County of Residence of First Listed Defendant <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		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
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IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 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 IHA (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

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 (FLSA) 29 U.S.C. 207(a) & 216(b)

Brief description of cause:
FLSA/PMWA - Failure to Pay Overtime (Collective/Class); Breach of Contract/WPCL (Individual and PA Class)

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: 09/18/2017 SIGNATURE OF ATTORNEY OF RECORD: /s/ Joseph H. Chivers

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, FEHA, 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: 9/18/17

ATTORNEY AT LAW

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

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: [Former Employee Delivers Class Action to R&R Express](#)
