



**JURISDICTION AND VENUE**

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

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

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

**THE PARTIES**

5. Plaintiff Robert Stewart is an individual who resides in Philadelphia County, PA. From April 7, 2017 to present, Mr. Stewart has worked as a full-time, hourly Paratransit Driver from the First Transit depot at 2500 Wheat Sheaf Lane in Philadelphia, PA. Mr. Stewart is personally familiar with, and has been personally affected by, the policies and practices described in this Complaint and has signed and filed a Consent Form to join this litigation. *See* Exhibit A.

6. Defendant First Transit, Inc. (“First Transit”) is a Florida Foreign For-Profit Corporation based in Cincinnati, Ohio. *See* [http://www.firstgroupplc.com/about-first-](http://www.firstgroupplc.com/about-firstgroup/first-)

*transit.aspx* (accessed Aug. 21, 2018); <https://www.corporationwiki.com/Ohio/Cincinnati/first-transit-inc-3603701.aspx> (accessed Aug. 21, 2018). First Transit is one of the largest private sector providers of public transit management and contracting in North America. *Id.* First Transit operates over 47,000 vehicles from more than 310 locations across the U.S. and Canada and provide fixed route bus services, paratransit services, shuttle bus services and vehicle maintenance services. *Id.*

7. Throughout the relevant period, First Transit has owned and exercised operational control over all significant business functions relating to its Paratransit Drivers, including: setting and implementing the compensation, hours of work, overtime, scheduling and timekeeping policies and procedures at issue in this matter, providing training on these policies and procedures, scheduling Paratransit Drivers' work, creating Paratransit Drivers' daily manifests, tracking Paratransit Drivers' hours worked and setting and paying Paratransit Drivers' wages.

### **BACKGROUND FACTS**

8. Defendant employs hourly Paratransit Drivers who, among other things, operate and maintain Defendant's vehicles, provide safe, high-quality ADA paratransit services to Defendant's riders, collect fares, perform pre- and post-trip vehicle inspections, complete written reports concerning passengers, accidents and incidents and provide excellent customer service. *See* <https://apply.firstgroupcareers.com/vacancy/paratransit-driver-16310/16336/description/> (accessed Aug. 21, 2018).

9. Defendant maintains common compensation, hours of work, overtime, scheduling and timekeeping policies and procedures for all hourly Paratransit Drivers that include:

- a. providing paper and electronic manifests showing Paratransit Drivers' daily scheduled customer drop-offs and pick-ups;
- b. routinely scheduling Paratransit Drivers for "O Time" gaps of more than 90 minutes between customer drop-offs and pick-ups;

- c. requiring Paratransit Drivers to hit the “in service” button at the start of each “O Time” gap to inform the Dispatcher they are available for an unscheduled ride;
- d. requiring Paratransit Drivers to wait up to 30 minutes for the Dispatcher to provide them with an unscheduled ride; and
- e. paying Paratransit Drivers for the first 30 minutes of “O Time” but then, if the Dispatcher does not find them an unscheduled ride, taking them “off-the-clock” until their next scheduled pick-up, typically between one and three hours later.

10. During “O Time” gaps, although they are “off-the-clock”, Defendant’s Paratransit Drivers must comply with a long list of requirements that severely limit their freedom while unilaterally benefitting Defendant and serving its business interests, including:

- a. staying within sight of their vehicle at all times;
- b. remaining constantly available to the Dispatcher;
- c. remaining in position and prepared for their next pick up;
- d. refraining from personal cell phone use;
- e. refraining from using their vehicles for personal trips;
- f. meeting Company appearance guidelines;
- g. maintaining records of all incidents or accidents involving their vehicle;
- h. being responsible for all damage to their vehicle;
- i. being responsible for all fares kept in their vehicle;
- j. being responsible for all fuel usage by their vehicle; and
- k. being subject to discipline, up to and including termination, for violating these provisions.

11. Defendant employs Road Supervisors, equipped with GPS devices showing the location of all paratransit vehicles, to drive around, look for policy violations and hold Paratransit Drivers accountable for their conduct during “O Time” gaps.



12. Defendant routinely scheduled Mr. Stewart to work at least 40 hours per week. About three times a week, Defendant provided Mr. Stewart with manifests showing “O Time” gaps of more than 90 minutes between rides. About once a week, Mr. Stewart received an unscheduled ride from the Dispatcher during the 30-minute window, so was able to stay “on-the-clock.” About twice a week, Mr. Stewart did not receive an unscheduled ride from the Dispatcher during the 30-minute window, so was taken “off-the-clock” for an average of two hours until his next scheduled pick-up. *See* Sample Time Reports (Exhibit B). As a result, Mr. Stewart spent an average of four hours each week complying with the requirements listed above, severely limiting his personal freedom while serving Defendant’s business interests, without receiving any pay for this work.

13. About two months into his employment, Mr. Stewart noticed that the hours reflected on his paychecks did not match up with the number of hours he was working. Mr. Stewart brought this issue to the attention of Finance Department Manager LaTarsha. During an in-person meeting, LaTarsha told Mr. Stewart that “everyone in the Company” was subject to common policies under which Paratransit Drivers would hit their “in service” button at the start of an “O Time” gap, the Dispatcher would have 30 minutes to send them an unscheduled ride and, unless the Dispatcher sent a ride in that 30 minutes, Defendant would take them “off-the-clock” until their next scheduled pick-up.

14. Throughout his employment, Mr. Stewart has spoken to many Paratransit Drivers about the “O Time” gap issue. Based on these discussions, and other information, Mr. Stewart believes the Company’s failure to pay wages for this time is the “number-one problem” about which Defendant’s Paratransit Drivers complain, both among each other and to Management.

**FLSA COLLECTIVE ACTION ALLEGATIONS**

15. Plaintiff brings his FLSA claim on an opt-in, collective basis pursuant to 29 U.S.C. § 216(b) for himself and all First Transit Paratransit Drivers who have worked on a full-time, hourly basis during the maximum limitations period (the “FLSA Collective”). Plaintiff reserves the right to amend this definition as necessary.

16. Plaintiff belongs to the FLSA Collective he seeks to represent, because he worked as a full-time, hourly First Transit Paratransit Driver during the relevant period.

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

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

19. Plaintiff estimates that the FLSA Collective consists of several hundred members. Defendant’s payroll and personnel records, among other documents, are expected to reveal the total number of people who qualify to participate in the FLSA Collective.

**PENNSYLVANIA CLASS ACTION ALLEGATIONS**

20. Plaintiff brings his PMWA claim on an opt-out, class action basis pursuant to Fed. R. Civ. P. 23 for himself and all Pennsylvania residents who have worked as a full-time, hourly First Transit Paratransit Driver during the maximum limitations period without receiving all overtime wages due as a result of Defendant’s “O Time” practices (the “PA Class”).

21. Plaintiff is a member of the PA Class because he is a Pennsylvania resident who has worked as a full-time, hourly First Transit Paratransit Driver during the maximum limitations period.

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

23. The PA Class is so numerous that joinder of all its members would be impracticable. Plaintiff estimates that several hundred employees may fit the PA Class definition, meaning that joining all of their claims would be impracticable.

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

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

26. Plaintiff will fairly and adequately assert and protect the interests of the PA Class because: there is no apparent conflict of interest between Plaintiff and the PA Class; Plaintiff's counsel have successfully prosecuted many complex class actions, including state-law wage and hour class actions, and will adequately prosecute these claims; and Plaintiff has adequate financial resources to assure that the interests of the PA Class will not be harmed because his counsel has agreed to advance the costs and expenses of litigation on the Class' behalf contingent upon the outcome of this litigation consistent with Pa. R. Prof. Conduct 1.8(e)(1). .

27. Allowing this action to proceed as a class action will provide a fair and efficient method for adjudication of the issues presented by this controversy because issues common to the PA Class predominate over any questions affecting only individual members; no difficulties are likely to be encountered in the management of this litigation as a class action; and the claim

addressed in this Complaint is not too small to justify the expenses of class-wide litigation, nor is it likely to be so substantial as to require the litigation of individual claims.

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

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

**COUNT I**  
**VIOLATION OF THE FLSA**  
**Unpaid Overtime Wages**

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

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

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

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

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

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

36. 29 U.S.C. § 216(b) expressly allows private plaintiffs to bring collective actions to enforce employers’ failure to comply with the FLSA’s requirements.

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

38. 29 U.S.C. § 207(a)(1) requires employers to pay their employees an overtime rate, equal to at least 1½ times their regular rate of pay, for all hours worked in excess of 40 hours per week.

39. Defendant has intentionally violated this provision of the FLSA by maintaining common timekeeping and compensation policies and practices that include: providing paper and electronic manifests showing Paratransit Drivers’ daily scheduled drop-offs and pick-ups; routinely scheduling “O Time” gaps of more than 90 minutes between Paratransit Drivers’ drop-offs and pick-ups; requiring Paratransit Drivers to hit the “in service” button at the start of each “O Time” gap to inform the dispatcher they are available for an unscheduled ride; requiring Paratransit Drivers

to wait up to 30 minutes for the dispatcher to provide them with an unscheduled ride; paying Paratransit Drivers for the first 30 minutes of “O Time” but then, if the dispatcher does not find them an unscheduled ride, taking them “off-the-clock” until their next scheduled pick-up, which is usually between one and three hours later; requiring Paratransit Drivers to comply with a long list of requirements that severely limit their personal freedom while serving Defendant’s business interests during “off-the-clock” “O Time” and failing to pay any wages for Paratransit Drivers’ “O Time” work.

40. By engaging in this conduct, Defendant has acted with willful and/or reckless disregard for Plaintiff’s and the FLSA Collective members’ rights under the FLSA.

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

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

**COUNT II**  
**VIOLATION OF THE PMWA**  
**Unpaid Overtime Wages**

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

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

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

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

47. Defendant has intentionally violated these provisions of the PMWA by maintaining common timekeeping and compensation policies and practices that include: providing paper and electronic manifests showing Paratransit Drivers’ daily scheduled drop-offs and pick-ups; routinely scheduling “O Time” gaps of more than 90 minutes between Paratransit Drivers’ drop-offs and pick-ups; requiring Paratransit Drivers to hit the “in service” button at the start of each “O Time” gap to inform the dispatcher they are available for an unscheduled ride; requiring Paratransit Drivers to wait up to 30 minutes for the dispatcher to provide them with an unscheduled ride; paying Paratransit Drivers for the first 30 minutes of “O Time” but then, if the dispatcher does not find them an unscheduled ride, taking them “off-the-clock” until their next scheduled pick-up, which is usually between one and three hours later; requiring Paratransit Drivers to comply with a long list of requirements that severely limit their personal freedom while serving Defendant’s business interests during “off-the-clock” “O Time” and failing to pay any wages for Paratransit Drivers’ “O Time” work.

48. By engaging in this conduct, Defendant has acted with willful and/or reckless disregard for Plaintiff’s and the PA Class members’ rights under the PMWA.

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

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

WHEREFORE, Plaintiff respectfully prays for an Order:

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



**JURY DEMAND**

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

Respectfully Submitted,

Dated: September 4, 2018

/s/ David J. Cohen

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*Attorneys for Plaintiff*

**CONSENT TO JOIN COLLECTIVE ACTION**

***Robert Stewart v. First Transit, Inc.***  
**United States District Court, Eastern District of Pennsylvania**

**Complete and Return To:**  
**STEPHAN ZOURAS, LLP**  
**Attn: First Transit Overtime Action**  
**100 N. Riverside, Suite 2150**  
**Chicago, IL 60606**  
**Phone: 312-233-1550**  
**Fax: 312-233-1560**  
**E-mail: [lawyers@stephanzouras.com](mailto:lawyers@stephanzouras.com)**

By signing below, I affirm that I worked as a full-time, hourly Paratransit Driver at First Transit in Pennsylvania in the past three years, and was not paid for "O Time" to which substantial work was performed while waiting for my next passenger pick-up.

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

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

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

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

8/30/2018

Date

DocuSigned by:



29E5B6DF0A66422...

Signature

Robert Stewart

Print Name

Employee Stewart, Robert A (124062UD5)

Status: Active

Clear Filter

Work Area

View 55351 SEPTA - PK

Errors Disbursement Detail Enter Punch Enter Hour Enter Absence Enter Disbursement Daily Details

Sunday 12/31/2017 to Saturday 1/13/2018

Date	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
1/13/2018	31	1	2	3	4	5	6	7	8	9	10	11	12	13
	In			07:00 •	07:00 •	06:10	07:26	07:00 •	06:15 •	06:10	05:50	07:23 •	06:04	
	Out			08:00 •	16:08 •	17:50	17:12	16:55	09:25 •	11:14	17:25	17:53 •	12:15	
	In								11:12 •	13:24			14:42	
	Out								12:09 •	19:06			17:30	
	In								14:01 •					
	Out								19:54 •					

	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Total Paid	Total Unpaid	Total Hours	Total Paid
<b>Total Hours</b>	0.00	0.00	0.00	1.00	9.13	11.67	9.77	9.92	10.00	10.77	11.58	10.50	8.98	1.25	94.57	0.00	94.57	\$1,352.35
Pay Codes				1.00											1.00		70.57	\$899.73
606																		
REG					9.13	11.67	9.77	9.92	10.00	10.77	9.32				70.57			\$899.73
REG > OT																		
INS > OT											2.27		8.98		11.25			\$215.16
622 > OT												10.50			10.50			\$200.81
<b>Grand Totals</b>														1.25	94.57	0.00	94.57	\$1,352.35

Hours Detail

Legend

Recalculate Employee List Recalculate Employee Print Time Card

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Time Card (ft)

Employee  Status: Active

Work Area

View

Navigation: Sunday 1/28/2018 to Saturday 2/10/2018

	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
<b>28</b>	Locked	Locked	Locked	Locked	Locked	Locked	Locked	Locked	Locked	Locked	Locked	Locked	Locked	Locked
<b>29</b>	06:25	06:25	05:40	15:00	07:58				06:01	06:23	06:27	08:19	06:04	08:00
<b>30</b>		18:59	14:56	22:45	09:54			13:40	10:52	17:48	14:53	09:52	16:30	
<b>31</b>					11:48				13:15				11:23	
<b>1</b>					19:44				18:47				19:42	
<b>2</b>														
<b>3</b>														
<b>4</b>														
<b>5</b>														
<b>6</b>														
<b>7</b>														
<b>8</b>														
<b>9</b>														
<b>10</b>														

	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Total Paid	Total Unpaid	Total Hours	Total Pay
<b>Total Hours</b>	0.00	12.57	9.27	7.75	9.87	9.87	0.00	0.00	7.65	10.02	11.35	6.57	12.12	8.50	95.65	0.00	95.65	\$1,322.81
<b>Pay Codes</b>																		
<b>REG</b>		12.57	9.27	7.75	9.87	9.87			7.65	10.02	11.35	6.57	4.42		79.45			\$1,012.99
<b>REG &gt; OT</b>													7.70		7.70			\$147.26
<b>NDR &gt; OT</b>														8.50	8.50			\$162.56
<b>Grand Totals</b>															95.65	0.00	95.65	\$1,322.81

Legend

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Work Area  
 View 55351 SEPTA - PI  
 Date 10/7/2017  
 Status: Active  
 Clear Filter

Errors Disbursement Detail Enter Punch Enter Hour Enter Absence Enter Disbursement Daily Details

Sunday 9/24/2017 to Saturday 10/7/2017

	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
<b>Locked</b>	<b>Locked</b>	<b>Locked</b>	<b>Locked</b>	<b>Locked</b>	<b>Locked</b>	<b>Locked</b>	<b>Locked</b>	<b>Locked</b>	<b>Locked</b>	<b>Locked</b>	<b>Locked</b>	<b>Locked</b>	<b>Locked</b>	<b>Locked</b>
24	25	26	27	28	29	30	1	2	3	4	5	6	7	
In 07:25	07:02 • 06:44 •	06:44 •	06:41	06:46	06:15	06:15	06:44	06:55	06:46	06:54	11:09	18:16	16:10	
Out 14:45	11:02 • 09:05 •	18:33	19:40	18:20	15:40	20:13	16:02							
In 12:50 • 11:14 •	15:47 • 20:48 •													
Out														

	Total Hours	REG	REG > OT	SIC	Grand Totals	Total Paid	Total Unpaid	Total Hours	Total Pay						
<b>Total Hours</b>	7.33	6.95	11.92	12.90	12.08	0.00	8.93	0.00	13.30	9.27	8.00	11.37	5.02	118.93	\$1,713.60
<b>Pay Codes</b>															
<b>REG</b>	7.33	6.95	11.92	11.87	1.93	8.93	8.93	13.30	9.27	8.50	80.00	2.87	5.02	30.93	\$1,020.00
<b>REG &gt; OT</b>															\$591.60
<b>SIC</b>								8.00		8.00					\$102.00
<b>Grand Totals</b>										118.93	0.00	118.93	118.93	118.93	\$1,713.60

Hours Detail  
 Legend

Recalculate Employee List Recalculate Employee

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**CIVIL COVER SHEET**

JS 44 (Rev. 06/17)

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**

ROBERT STEWART

**DEFENDANTS**

FIRST TRANSIT, INC.

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

County of Residence of First Listed Defendant HAMILTON CO., OH  
(IN U.S. PLAINTIFF CASES ONLY)

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

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

Attorneys (If Known)

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

N/A

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

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

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

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1 Incorporated or Principal Place of Business In This State	<input type="checkbox"/>	<input type="checkbox"/>
Citizen of Another State	<input type="checkbox"/>	<input type="checkbox"/>	2 Incorporated and Principal Place of Business In Another State	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Citizen or Subject of a Foreign Country	<input type="checkbox"/>	<input type="checkbox"/>	3 Foreign Nation	<input type="checkbox"/>	<input type="checkbox"/>

**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 Default 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	<b>PERSONAL INJURY</b> <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"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <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 <b>IMMIGRATION</b> <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 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <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)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff 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
<b>REAL PROPERTY</b> <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	<b>CIVIL RIGHTS</b> <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	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vary Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <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):

29 U.S.C. SEC 201 ET SEQ.

Brief description of cause:

FAILURE TO PAY OVERTIME WAGES.

**VII. REQUESTED IN COMPLAINT:**

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

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE N/A

DOCKET NUMBER N/A

DATE Sept 5, 2018

SIGNATURE OF ATTORNEY OF RECORD  
DAVID J. COHEN

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_



## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.



UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 4745 TAMPA ST., PHILA., PA 19120  
 Address of Defendant: 600 VINE ST., CINCINNATI, OH 45202  
 Place of Accident, Incident or Transaction: PHILADELPHIA CO., PA

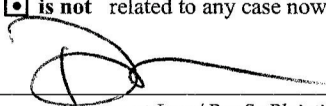
RELATED CASE, IF ANY:

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

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- |  |                              |  |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?            | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

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

DATE: SEPT. 5, 2018  74070  
 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

CIVIL: (Place a √ in one category only)

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
- 2. FELA
- 3. Jones Act-Personal Injury
- 4. Antitrust
- 5. Patent
- 6. Labor-Management Relations
- 7. Civil Rights
- 8. Habeas Corpus
- 9. Securities Act(s) Cases
- 10. Social Security Review Cases
- 11. All other Federal Question Cases

(Please specify): FLSA, 29 U.S.C. SEC. 201 ET SEQ.

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
- 2. Airplane Personal Injury
- 3. Assault, Defamation
- 4. Marine Personal Injury
- 5. Motor Vehicle Personal Injury
- 6. Other Personal Injury (Please specify): \_\_\_\_\_
- 7. Products Liability
- 8. Products Liability – Asbestos
- 9. All other Diversity Cases

(Please specify): \_\_\_\_\_

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, DAVID J. COHEN, counsel of record or pro se plaintiff, do hereby certify:

- Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:
- Relief other than monetary damages is sought.

DATE: SEPT. 5, 2018  74070  
 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

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

CASE MANAGEMENT TRACK DESIGNATION FORM

Robert Stewart : CIVIL ACTION  
v. :  
First Transit, Inc. : NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.)
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

<u>Sept. 5, 2018</u>	<u>David J. Cohen</u>	<u>Plaintiff</u>
Date	Attorney-at-law	Attorney for
<u>215-873-4836</u>	<u>312-233-1560</u>	<u>dcohen@stephenzawors.com</u>
Telephone	FAX Number	E-Mail Address

**Civil Justice Expense and Delay Reduction Plan  
Section 1:03 - Assignment to a Management Track**

(a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.

(b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

(c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.

(d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.

(e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

**SPECIAL MANAGEMENT CASE ASSIGNMENTS  
(See §1.02 (e) Management Track Definitions of the  
Civil Justice Expense and Delay Reduction Plan)**

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [First Transit Driver Seeks to Recover Allegedly Unpaid OT for Off-the-Clock Work](#)

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