

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

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NESSA WILLIAMS, <i>on behalf of herself and others similarly situated,</i>	:	CIVIL ACTION
	:	
Plaintiff,	:	NO. _____
v.	:	
	:	CLASS/COLLECTIVE ACTION
BETHANNA,	:	
	:	JURY TRIAL DEMANDED
Defendant.	:	

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**COMPLAINT – CLASS/COLLECTIVE ACTION**

Nessa Williams (“Plaintiff”) brings this lawsuit against Bethanna (“Defendant”), seeking all available relief under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, *et seq.*, and the Pennsylvania Minimum Wage Act (“PMWA”), 43 P.S. §§ 333.101, *et seq.* Plaintiff’s FLSA claim is asserted as a collective action under 29 U.S.C. § 216(b), while her PMWA claim is asserted as a class action under Federal Rule of Civil Procedure 23. *See Knepper v. Rite Aid Corp.*, 675 F.3d 249 (3d Cir. 2012) (collective and class claims may proceed together in the same lawsuit).

**JURISDICTION AND VENUE**

1. Jurisdiction over the FLSA claim is proper under 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.
2. Jurisdiction over the PMWA claim is proper under 28 U.S.C. § 1367.
3. Venue in this Court is proper under 28 U.S.C. § 1391.

**PARTIES**

4. Plaintiff resides at 4619 Conshohocken Avenue, Philadelphia, PA 19131.
5. Bethanna is a corporate entity headquartered at 1030 Second Street Pike, Southampton, PA 18966.

6. Plaintiff is an employee covered by the FLSA and PMWA.
7. Defendant is an employer covered by the FLSA and PMWA.

**FACTS**

8. Defendant, according to its website, “provides adoption, child welfare services and behavioral health care in Philadelphia, Southeastern and Central Pennsylvania.”
9. In providing such services, Defendant employs Case Managers.
10. Plaintiff is employed by Defendant as a Case Manager and works in Philadelphia.
11. The Case Manager position carries no managerial or supervisory responsibilities and does not require any involvement in or knowledge of Defendant’s general business operations.
12. The Case Manager position does not require a Master’s Degree.
13. Plaintiff does not have a Master’s Degree.
14. The Case Manager position does not require specialized academic training. For example, according to the job description on Defendant’s website, Case Managers may have Bachelor’s Degrees in fields “including but not limited to sociology, psychology, counseling, criminal justice, education, divinity, or public health administration.”
15. Plaintiff has a Bachelor’s Degree in Elementary Education.
16. Case Managers are paid on a salary basis. For example, Plaintiff is paid an annual salary of around \$43,000.
17. Case Managers regularly work over 40 hours per week. For example, Plaintiff currently works 40-50 hours during typical week, and, during the 2016-17 time period, she frequently worked over 50 hours per week and sometimes worked over 60 hours per week.
18. Plaintiff and other Case Managers do not receive any overtime premium

compensation for hours worked over 40 per week.

**CLASS/COLLECTIVE ACTION ALLEGATIONS**

19. Plaintiff brings her FLSA claim as a collective action pursuant to 29 U.S.C. §216(b) and brings her PMWA claim as a class action pursuant to Federal Rule of Civil Procedure 23. She sues on behalf of all Case Managers employed by Defendant during any week within the past three years.

20. Plaintiff's FLSA claim should proceed as a collective action because she and other putative collective members, having worked pursuant to the common compensation policies described herein, are "similarly situated" as that term is defined in 29 U.S.C. § 216(b) and the associated decisional law.

21. Class action treatment of Plaintiff's PMWA claim is appropriate because, as alleged below, all of Federal Rule of Civil Procedure 23's class action requisites are satisfied.

22. The class, upon information and belief, includes over 70 individuals, all of whom are readily ascertainable based on Defendant's payroll records and are so numerous that joinder of all class members is impracticable.

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

24. Plaintiff and her lawyers will fairly and adequately represent the class members and their interests.

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

principles to common facts.

26. Class certification is appropriate under Federal Rule of Civil Procedure 23(b)(3) because common questions of law and fact predominate over questions affecting only individual class members and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation.

**COUNT I**  
**(Alleging FLSA Violations)**

27. All previous paragraphs are incorporated as though fully set forth herein.

28. The FLSA requires that employees receive overtime premium compensation “not less than one and one-half times” their regular pay rate for hours worked over 40 per week. *See* 29 U.S.C. § 207(a)(1).

29. Defendant violated the FLSA by failing to pay Plaintiff and the FLSA collective overtime premium compensation for all hours worked over 40 per week.

30. In violating the FLSA, Defendant acted willfully and with reckless disregard of clearly applicable FLSA provisions and, as such, willfully violated the FLSA.

**COUNT II**  
**(Alleging PMWA Violations)**

31. All previous paragraphs are incorporated as though fully set forth herein.

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

33. Defendant violated the PMWA by failing to pay Plaintiff and the Rule 23 class overtime premium compensation for all hours worked over 40 per week.

**JURY DEMAND**

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

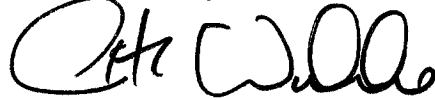
**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, on behalf of herself and other members of the class/collective, seeks the following relief:

- A. Unpaid overtime wages and prejudgment interest;
- B. Liquidated damages to the fullest extent permitted under the FLSA;
- C. Litigation costs, expenses, and attorneys' fees; and
- D. Such other and further relief as the Court deems just and proper.

Date: July 23, 2018

Respectfully,



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Peter Winebrake  
R. Andrew Santillo  
Mark J. Gottesfeld  
Winebrake & Santillo, LLC  
715 Twining Road, Suite 211  
Dresher, PA 19025  
(215) 884-2491

*Plaintiff's Counsel*

**CONSENT TO BECOME PARTY PLAINTIFF**

I hereby consent, pursuant to Section 16(b) of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b), to become a party plaintiff in the accompanying FLSA action. I understand that I will be bound by the judgment of the Court on all issues in this case.



\_\_\_\_\_  
Signature



\_\_\_\_\_  
Print Name

CIVIL COVER SHEET

2:18-3106

The JS 44 civil cover sheet and the information contained therein 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

NESSA WILLIAMS, on behalf of herself and others similarly situated

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

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

Winebrake & Santillo, LLC, 715 Twining Road, Suite 211, Dresher, PA 19025; Ph: (215) 884-2491

DEFENDANTS

BETHANNA

18 3106

County of Residence of First Listed Defendant Bucks (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

Unknown

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

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

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

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

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

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

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)

Fair Labor Standards Act
Brief description of cause: Failure to pay overtime compensation

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 7/23/18

SIGNATURE OF ATTORNEY OF RECORD [Signature]

[Signature]

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG JUDGE

**GJP**

**18 3106**

**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: 4619 Conshohocken Avenue, Philadelphia, PA 19131

Address of Defendant: 1030 Second Street Pike, Southampton, PA 18966

Place of Accident, Incident or Transaction: N/A

**RELATED CASE, IF ANY:**

Case Number \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated \_\_\_\_\_

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  No
- 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  No
- 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  No
- 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  No

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 07/23/2018

*[Signature]*  
Attorney-at-Law / Pro Se Plaintiff

80496  
Attorney ID # (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) Fair Labor Standards Act

**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, Peter Winebrake, 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 07/23/2018

*[Signature]*  
Attorney-at-Law / Pro Se Plaintiff

JUL 24 2018  
80496  
Attorney ID # (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



**GJP** IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA  
CASE MANAGEMENT TRACK DESIGNATION FORM

NESSA WILLIAMS

v.

BETHANNA

:  
:  
:  
:  
:

CIVIL ACTION

**18** **3106**  
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. ( )



7/23/18                      Peter Winebrake                      PLAINTIFF  
Date                                      Attorney-at-law                                      Attorney for

215-884-2491                      215-884-2492                      pwinebrake@winebrakedaw.com  
Telephone                                      FAX Number                                      E-Mail Address

(Civ. 660) 10/02

JUL 24 2018

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Case Worker Sues Bethanna for Allegedly Unpaid OT](#)

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