

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

**ROBERT CAMERON, on behalf of himself  
and similarly situated employees,**

Plaintiff

vs.

**PALLET EXPRESS, INC.,**

Defendant

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**NO.: 16-06222**

**CIVIL ACTION**

**DEFENDANT’S ANSWERS AND AFFIRMATIVE DEFENSES TO PLAINTIFF’S CIVIL  
ACTION COMPLAINT**

AND NOW, comes the Defendant, Pallet Express, Inc., by and through its Attorneys, MARGLE LAW OFFICES, P.C., with this Answer and Affirmative Defenses to Plaintiff’s Civil Action Complaint, of which the following is a statement:

**ANSWERS TO THE ALLEGATIONS OF THE COMPLAINT**

**COMPLAINT- CLASS/COLLECTIVE ACTION**

Defendant ADMITS that Plaintiff purports to bring an action against Defendant for violations of the Fair Labor Standards Act (“FLSA”), and the Pennsylvania Minimum Wage Act (“PMWA”), and asserts the claim as a Class Action, but DENIES that Plaintiff is entitled to any relief or damages. Further, the assertions made in this Introductory Paragraph constitute legal conclusions or legal statements to which no response is necessary.

**JURISDICTION AND VENUE**

1. The allegations contained in this Paragraph of the Complaint constitute legal conclusions or legal statements to which no response is necessary.
2. The allegations contained in this Paragraph of the Complaint constitute legal conclusions or legal statements to which no response is necessary.

3. The allegations contained in this Paragraph of the Complaint constitute legal conclusions or legal statements to which no response is necessary.

4. Defendant is without sufficient knowledge to form a belief as to the accuracy of this averment.

5. Defendant DENIES the allegations contained in this Paragraph of the Complaint. By way of further Response, Plaintiff is not an Employee covered by the FLSA and PMWA as he is an Employee covered by the Motor Carrier Exemption of the FLSA, Section 213(b)(1), and Section 333.105(b)(7) of the PMWA. *See* 29 U.S.C. § 213(b)(1). *See also* 43 P.S. § 333.105(b)(7).

6. Defendant ADMITS the allegations contained in this Paragraph of the Complaint.

7. Defendant ADMITS the allegations contained in this Paragraph of the Complaint.

8. The allegations contained in this Paragraph of the Complaint constitute legal conclusions or legal statements to which no response is necessary.

### **FACTS**

9. Defendant ADMITS the allegations contained in this Paragraph of the Complaint

10. DENIED. By way of further response, all Employees of Defendant who are not exempt under the Motor Carrier Exemption of the FLSA and PMWA receive(d) overtime compensation. Employees who work in the saw-room or sorting-room Departments, including Plaintiff, receive Overtime Compensation for Overtime hours worked in those positions. Plaintiff was employed by Defendant as primarily a Yard Jockey driving a “yard dog” and Forklift Operator. In said positions, Plaintiff’s job entailed inspecting outbound Trucks and Trailers and reporting to Maintenance any safety issues, as well as loading the Trailers and ensuring the safety and quality of the load. Plaintiff often assisted with the maintenance and repair of the

Trucks and Trailers upon his inspection of them. Plaintiff's position entailed activities which directly affected the safe operation of Defendant's Tractors and Trailers which operate on Interstate Highways and in Interstate Commerce. Said positions are covered under the Motor Carrier Exemption of the FLSA and PMWA.

11. Defendant ADMITS the allegations contained in this Paragraph of the Complaint.

12. DENIED as stated. It is ADMITTED that Plaintiff worked Overtime hours. All other averments in this paragraph of the Complaint are DENIED.

13. DENIED as stated.

14. DENIED as stated. It is ADMITTED that Plaintiff worked 50.5 hours during the week ending May 28, 2016. It is also ADMITTED that Defendant paid Plaintiff \$17.00 an hour. All other characterizations of Defendant's actions alleged in this paragraph of the Complaint are DENIED.

15. DENIED. By way of further response, the allegations contained in this Paragraph of the Complaint constitute legal conclusions or legal statements to which no response is necessary

**CLASS/COLLECTIVE ACTION ALLEGATIONS**

16. Defendant ADMITS that Plaintiff purports to proceed herein as a Collective Action.

17. The allegations contained in this Paragraph of the Complaint constitute legal conclusions or legal statements to which no response is necessary.

18. The allegations contained in this Paragraph of the Complaint constitute legal conclusions or legal statements to which no response is necessary.

19. The allegations contained in this Paragraph of the Complaint constitute legal

conclusions or legal statements to which no response is necessary.

20. The allegations contained in this Paragraph of the Complaint constitute legal conclusions or legal statements to which no response is necessary. By way of further response, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of Plaintiff's interests, and therefore DENIES the allegations contained in this Paragraph of the Complaint.

21. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in this Paragraph of the Complaint, and therefore DENIES the allegations contained in this Paragraph of the Complaint.

22. The allegations contained in this Paragraph of the Complaint constitute legal conclusions or legal statements to which no response is necessary.

23. The allegations contained in this Paragraph of the Complaint constitute legal conclusions or legal statements to which no response is necessary.

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

24. Defendant ADMITS that the foregoing paragraphs are incorporated herein in their entirety as if set forth in full, and incorporates its responses to the same herein in their entirety as if set forth in full.

25. The allegations contained in this Paragraph of the Complaint constitute legal conclusions or legal statements to which no response is necessary.

26. Defendant DENIES the allegations contained in this Paragraph of the Complaint. By way of further response, the allegations contained in this Paragraph of the Complaint constitute legal conclusions or legal statements to which no response is necessary.

27. Defendant DENIES the allegations contained in this Paragraph of the Complaint. By way of further response, the allegations contained in this Paragraph of the Complaint constitute legal conclusions or legal statements to which no response is necessary.

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

28. Defendant ADMITS that the foregoing paragraphs are incorporated herein in their entirety as if set forth in full, and incorporates its responses to the same herein in their entirety as if set forth in full.

29. The allegations contained in this Paragraph of the Complaint constitute legal conclusions or legal statements to which no response is necessary.

30. Defendant DENIES the allegations contained in this Paragraph of the Complaint. By way of further response, the allegations contained in this Paragraph of the Complaint constitute legal conclusions or legal statements to which no response is necessary.

**JURY DEMAND**

It is ADMITTED that Plaintiff demands a jury trial as to all claims so triable.

**PRAYER FOR RELIEF**

This paragraph of the Complaint is a Prayer for Relief to which no response is required.

WHEREFORE, Defendant respectfully requests that this Honorable Court Dismiss Plaintiff's Complaint with prejudice, in its entirety; Grant Defendant its Attorney's Fees and Costs in connection with this suit; and award Defendant such further relief that this Court deems just and proper.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

Plaintiffs' Claim is barred as the Complaint, and each purported cause of action contained therein, is barred because Plaintiffs were at all relevant times exempt from coverage under the Motor Carrier Exemption of the PMWA at 43 P.S. § 333.105(b)(7).

**SECOND AFFIRMATIVE DEFENSE**

Plaintiffs' Claim is barred as the Complaint, and each purported cause of action contained therein, is barred because Plaintiffs were at all relevant times exempt from coverage under the Motor Carrier Exemption of the FLSA at 29 U.S.C.A. §213(b)(1).

**THIRD AFFIRMATIVE DEFENSE**

Plaintiffs' Claim is barred as Defendant has fully complied with the provisions of the FLSA and PMWA.

**FOURTH AFFIRMATIVE DEFENSE**

Collective or Class Action relief is not appropriate as Plaintiff is not similarly situated to putative collection individuals whom he purports to represent.

**FIFTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to meet the requirements of Federal Rule of Civil Procedure 23 to certify the class.

**SIXTH AFFIRMATIVE DEFENSE**

Defendant subjectively acted in good faith and had reasonable grounds to believe it was not violating the FLSA or PMWA, therefore, liquidated damages should be reduced or denied under 29 U.S.C. § 260.

**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiffs' Complaint fails to state a claim upon which relief may be granted.

**EIGHTH AFFIRMATIVE DEFENSE**

To the extent that Plaintiff has failed to institute this action within the time required under the applicable Statute of Limitations, his claims for relief are barred.

**NINTH AFFIRMATIVE DEFENSE**

Plaintiffs' claim for punitive damages fails to state a claim upon which relief can be granted.

**TENTH AFFIRMATIVE DEFENSE**

Plaintiffs' claim for punitive damages fails because Defendant did not act with malice or reckless indifference to Plaintiff's federally protected rights, or engage in willful, deliberate, malicious or outrageous conduct.

**ELEVENTH AFFIRMATIVE DEFENSE**

To the extent Plaintiff has made any claims for special damages or other damages, he has failed to state such claim with the requisite specificity. Therefore, Plaintiff's claims are barred and should be dismissed.

**TWELFTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to set forth facts sufficient to establish a prima facie case for violations of the FLSA.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to set forth facts sufficient to establish a prima facie case for violations of the PMWA.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the Doctrine of Equitable Estoppel.

**FIFTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the Doctrine of Unclean Hands.

**SIXTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the Doctrine of Waiver.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the Doctrine of Laches.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the Doctrine of Accord and Satisfaction.

**NINETEENTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the Doctrine of Justification.

**TWENTIETH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the Doctrine of Release.

**TWENTY-FIRST AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the Doctrine of Fraud.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the Doctrine of Illegality.

**TWENTY-THIRD AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the Doctrine of Payment.

**TWENTY-FOURTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the Doctrine of Consent.



**TWENTY-FIFTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, to the extent Plaintiff is seeking to recover costs or damages that are unreasonable, duplicative or otherwise inappropriate. Plaintiff has incurred no damages cognizable by law.

**TWENTY-SIXTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by Plaintiff's failure to join indispensable parties to this action.

**TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff would be unjustly enriched if permitted to recover against Defendant on the claims set forth in the Complaint.

Defendant reserves the right to assert additional affirmative defenses as established by the facts of the case.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter Judgment in its favor; that the Plaintiffs takes nothing under the Complaint; Dismiss Plaintiffs' Complaint with prejudice, in its entirety; Grant Defendant its Attorney's Fees and Costs in connection with this suit; and that this Court award Defendant any and all further relief that this Court deems appropriate.

Respectfully Submitted,  
MARGLE LAW OFFICES, P.C.

By: /s/ Stanley J. Margle, III  
Stanley J. Margle, III  
I.D. # 36553  
3839 Easton Avenue  
Bethlehem, PA 18020  
(610) 865-9970  
smargle@marglelaw.com  
Attorney for Defendant

Dated: 2/7/17

**CERTIFICATE OF SERVICE**

I, Stanley J. Margle, III, hereby certify that a true and correct copy of the foregoing Answer and Affirmative Defenses was served on the following via ECF:

Peter Winebrake, Esquire  
715 Twinning Road, Suite 211  
Dresher, PA 19025  
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Mark J. Gottesfeld  
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Dated: February 7, 2017

/s/ Stanley J. Margle, III  
STANLEY J. MARGLE, III