

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

FILED

NOV 29 2016

LUCY V. CHIN, Interim Clerk
By _____ Dep. Clerk

_____	:	
ROBERT CAMERON, on behalf of himself	:	CIVIL ACTION
and similarly situated employees,	:	
Plaintiff,	:	NO. _____
v.	:	
	:	CLASS/COLLECTIVE ACTION
PALLET EXPRESS INC.,	:	
Defendant.	:	JURY TRIAL DEMANDED
_____	:	

COMPLAINT – CLASS/COLLECTIVE ACTION

Plaintiff Robert Cameron (“Plaintiff”) brings this class/collective action lawsuit against Defendant Pallet Express Inc. (“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 his 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) (FLSA collective action claims and Rule 23 class action claims may proceed together).

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 is an individual residing in Easton, PA (Northampton County).
5. Plaintiff is an employee covered by the FLSA and the PMWA.
6. Defendant is a corporate entity headquartered in Easton, PA (Northampton

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County).

7. Defendant employs individuals, including Plaintiff, engaged in commerce or in the production of goods for commerce and/or handling, selling, or otherwise working on goods or materials that have been moved in or produced in commerce by any person.

8. Defendant is an employer covered by the FLSA and PMWA.

FACTS

9. Defendant is in the business of manufacturing, reconditioning, and recycling pallets. It operates plants in Easton and Nazareth, PA.

10. During the three-year time period relevant to this lawsuit, Defendant has employed at its plants over 50 individuals who: (i) are paid on an hourly basis; (ii) do not receive overtime premium compensation for hours worked over 40 per week; and (iii) neither drive commercial motor vehicles on the public highways nor work on such vehicles as mechanics. Plaintiff was so employed during the relevant time period, working in hourly positions such as yard jockey, saw room supervisor, and sorting supervisor.

11. Defendant most recently paid Plaintiff an hourly wage of \$17.00.

12. Plaintiff, like other employees identified in paragraph 10, often worked over 40 hours per week.

13. Plaintiff, like other employees identified in paragraph 10, did not receive overtime premium compensation calculated at 150% of his regular pay rate for all hours worked over 40 per week. Instead, Plaintiff, like other employees identified in paragraph 10, was merely paid at his straight-time pay rate for such overtime hours.

14. As just one of many examples, Plaintiff was credited with working 50.5 hours during the week ending May 28, 2016. During this week, Defendant did not pay Plaintiff any

overtime premium compensation for his 10.5 overtime hours. Instead, Defendant paid Plaintiff at his straight-time rate of \$17.00/hour for all 50.5 hours.

15. Defendant's failure to pay overtime premium compensation to Plaintiff and other employees identified in paragraph 10 has been undertaken willfully and with reckless disregard of clearly applicable FLSA provisions.

CLASS/COLLECTIVE ACTION ALLEGATIONS

16. Plaintiff brings his FLSA claim as a collective action pursuant to 29 U.S.C. §216(b) and brings his PMWA claim as a class action pursuant to Federal Rule of Civil Procedure 23. He sues on behalf of all individual who, during *any* week within the past three years: (i) have been employed at one of Defendant's pallet plants in positions requiring neither the driving of commercial motor vehicles on the public highways nor working on such vehicles as mechanics; (ii) have been paid on an hourly basis; and (iii) have not received overtime premium compensation for hours worked over 40 per week.

17. Plaintiff's FLSA claim should proceed as a collective action because Plaintiff 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.

18. 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.

19. The class, upon information and belief, includes over 50 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.

20. Plaintiff is a class member, his claims are typical of the claims of other class

members, and he has no interests that are antagonistic to or in conflict with the interests of other class members.

21. Plaintiff and his lawyers will fairly and adequately represent the class members and their interests.

22. 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.

23. 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)

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

25. 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).

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

27. 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)

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

29. 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).

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

JURY DEMAND

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

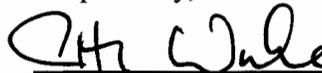
PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself 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: November 25, 2016

Respectfully,



Peter Winebrake
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Plaintiffs’ 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



Name (Please Print Clearly)