

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

---

HEATHER LUCAS, on behalf of herself and similarly situated employees,	:	
	:	
Plaintiff,	:	CIVIL ACTION 1:20-cv-29
	:	
v.	:	FILED ELECTRONICALLY
	:	ON JANUARY 31, 2020
	:	
HEARTFELT HOME HEALTHCARE, INC.,	:	
	:	
Defendant.	:	
	:	
	:	

---

**CLASS/COLLECTIVE ACTION COMPLAINT**

Plaintiff Heather Lucas (“Plaintiff”), on behalf of herself and similarly situated employees, brings this class/collective action lawsuit against Defendant Heartfelt Home Healthcare, 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 pursuant to FLSA Section 16(b), 29 U.S.C. § 216(b), while her PMWA claim is asserted as a class action pursuant to Federal Rule of Civil Procedure 23.<sup>1</sup>

**JURISDICTION AND VENUE**

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

---

<sup>1</sup> The Third Circuit Court of Appeals has held that FLSA collective action claims and Rule 23 class action claims may proceed together in the same lawsuit. *See Knepper v. Rite Aid Corp.*, 675 F.3d 249 (3d Cir. 2012).

**PARTIES**

4. Plaintiff is an individual residing in Erie, Pennsylvania (Erie County).
5. Plaintiff is an employee covered by the FLSA and the PMWA.
6. Defendant is a corporate entity doing business in this judicial district and headquartered in Erie, Pennsylvania (Erie County).
7. Defendant employs individuals, including Plaintiff, who are engaged in interstate commerce.
8. Defendant is an employer covered by the FLSA and the PMWA.

**FACTS**

9. Defendant, according to its company website, “has been providing specialized health care to clients in Erie, Crawford, Mercer, and Venango Counties since 2002.”

10. Defendant employs individuals who are paid on an hourly basis and provide homecare and/or healthcare services to Defendant’s customers and hold positions such as, for example, Certified Nursing Assistant (or “CNAs”). These individuals will be referred to as “hourly employees.”

11. Defendant takes an active role in controlling the work of its hourly employees. For example, Defendant set the rates of pay for its hourly employees, conducted yearly performance evaluations for its hourly employees, oversaw monthly training for continued certification of its hourly employees, held meetings with customer families and hourly employees every one to two months to measure customer progress on achieving individualized goals and evaluate hourly employees’ performance, required hourly employees to submit daily progress notes on services performed for customers, and created and oversaw a timekeeping system for its hourly employees to record their hours worked.

12. Plaintiff was employed by Defendant as an hourly employee from approximately November 2013 until approximately November 2019.

13. As an hourly employee, Plaintiff was assigned by Defendant to one of its clients, and was paid an hourly wage of \$12.00.

14. Plaintiff regularly worked over 40 hours in a week for Defendant

15. Defendant failed to pay overtime premium compensation to Plaintiff and other hourly employees when they worked over 40 hours in a week. As one of many examples, Plaintiff was credited with working 81 hours during the period ending September 8, 2019, but was only paid at her straight-time hourly rate of \$12.00 for *all* work hours, including the 41 overtime hours.

#### **CLASS/COLLECTIVE ACTION ALLEGATIONS**

16. Plaintiff brings this lawsuit as a class and collective action on behalf of herself and all other individuals who, during any week since January 31, 2017, have been employed by Defendant, paid an hourly wage, and not paid overtime premium compensation for all hours worked over 40 in a 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 policies of Defendant described herein, are "similarly situated" as that term is defined in 29 U.S.C. § 216(b) and the associated decisional law

18. This action is properly maintained as a class action under the PMWA pursuant to Federal Rule of Civil Procedure 23.

19. The class is so numerous that joinder of all individual members is impracticable.

20. Defendant's conduct with respect to Plaintiff and the class raises questions of law

and fact that are common to the entire class.

21. Plaintiff's claims and Defendant's anticipated defenses are typical of the claims or defenses applicable to the entire class.

22. Plaintiff's interests in pursuing this lawsuit are aligned with the interests of the entire class.

23. Plaintiff will fairly and adequately protect class members' interests because she and her experienced counsel are free of any conflicts of interest and are prepared to vigorously litigate this action on behalf of the entire class.

24. A class action provides the fairest and most efficient method for adjudicating the legal claims of all class members.

25. Questions of law and fact are common to all class members, because, *inter alia*, this action concerns Defendant's companywide pay policies, as described herein. The legality of these policies will be determined through the application of generally applicable legal principles to a common set of 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. Defendant is an employer covered by the FLSA, and Plaintiff and collective members are employees entitled to the FLSA's protections.

29. 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); *see also Home Care Ass’n of Am. v. Weil*, 799 F.3d 1084 (D.C. Cir. 2015).

30. Defendants violated the FLSA by failing to pay Plaintiff and other FLSA collective members overtime premium for hours worked over 40 per week.

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

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

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

33. Defendant is an employer covered by the PMWA, and Plaintiff and the class members are employees entitled to the PMWA’s protections.

34. The PMWA requires Defendant to pay Plaintiff and other class members overtime premium compensation “not less than one and one-half times” the regular pay rate for all hours worked over 40 per week. *See* 43 P.S. § 333.104(c); *see also Bayada Nurses, Inc. v. Commonwealth*, 8 A.2d 866 (Pa. 2010); *Grajales v. Safe Haven Quality Care, LLC*, 2013 Pa. Dist. & Cnty. Dec. LEXIS 128 (Dauphin Cty. Com. Pl. Sept. 5, 2013).

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

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, on behalf of herself and the class and collective, seek the following relief:

- A. Unpaid wages to the fullest extent permitted under the law;
- B. Liquidated damages to the fullest extent permitted under the law;

- C. Prejudgment interest to the fullest extent permitted under the law;
- D. Litigation costs, expenses, and attorney's fees to the fullest extent permitted under the law; and
- E. Such other and further relief as this Court deems just and proper.

**JURY DEMAND**

Plaintiff demands a jury trial.

Date: January 31, 2020



---

Peter Winebrake  
R. Andrew Santillo  
Mark J. Gottesfeld  
WINEBRAKE & SANTILLO, LLC  
Twining Office Center, Suite 211  
715 Twining Road  
Dresher, PA 19025  
Phone: (215) 884-2491  
Fax: (215) 884-2492  
Email: [asantillo@winebrakelaw.com](mailto:asantillo@winebrakelaw.com)

*Attorneys for Plaintiff*

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.)

**I. (a) PLAINTIFFS**

HEATHER LUCAS

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

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

Peter Winebrake/Andrew Santillo/Mark Gottesfeld, Winebrake & Santillo, LLC, 715 Twining Road, Ste. 211, Dresher, PA 19025; (215) 884-2491

**DEFENDANTS**

HEARTFELT HOME HEALTHCARE, INC.

County of Residence of First Listed Defendant Erie  
(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
- 3 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)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | <b>PTF</b>                 | <b>DEF</b>                 |   | <b>PTF</b>                 | <b>DEF</b>                 |
| 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 |

**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 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	<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	<b>PERSONAL INJURY</b> <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 <b>PERSONAL PROPERTY</b> <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 <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 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	<b>Habeas Corpus:</b> <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 <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):

Fair Labor Standards Act

Brief description of cause:

Failure to pay overtime premium 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):

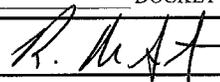
JUDGE

DOCKET NUMBER

DATE

01/31/2020

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

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