

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

ALEX BELLAUS, individually and on behalf of others similarly situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
Brown, LLC, 155 2nd Street, Suite 4, Jersey City, New Jersey 07302
(877) 561-0000

DEFENDANTS

TRAFFIC ENGINEERING SERVICES, LLC,

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

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

Attorneys (If Known)

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)

	PTF	DEF		PTF	DEF
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	PERSONAL INJURY <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	PERSONAL INJURY <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 PERSONAL PROPERTY <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 LABOR <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 IMMIGRATION <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 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <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)) FEDERAL TAX SUITS <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	Habeas Corpus: <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 Other: <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 ("FLSA"), 29 U.S.C. §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 _____

DOCKET NUMBER _____

DATE

10/26/2018

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

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: 1037 Third Avenue, Phillipsburg, NJ 08865
 Address of Defendant: 4670 Shantz Road, Suite 1, Allentown, PA 18104
 Place of Accident, Incident or Transaction: 4670 Shantz Road, Suite 1, Allentown, PA 18104

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 <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: 10/26/2018 _____ 79369
 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): Fair Labor Standards Act, 29 U.S.C. §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, Jason T. Brown, 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: 10/26/2018 _____ 79369
 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.

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

ALEX BELLAUS, individually and on
 behalf of others similarly situated,

CIVIL ACTION

v.

AR

TRAFFIC ENGINEERING
 SERVICES, LLC,

18
 NO. 4639

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. (X)

10/26/2018	Jason T. Brown	Plaintiff
Date	Attorney-at-law	Attorney for
(877) 561-0000	(855) 582-5297	jtb@jtblawgroup.com
Telephone	FAX Number	E-Mail Address

(Civ. 660) 10/02

OCT 29 2018

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

ALEX BELLAUS, individually and on behalf
of others similarly situated,

Plaintiff,

vs.

**TRAFFIC ENGINEERING SERVICES,
LLC**,

Defendant.

Civil Case No.:

COLLECTIVE AND CLASS ACTION COMPLAINT WITH JURY DEMAND

Plaintiff Alex Bellaus, individually and on behalf of all others similarly situated, by and through his attorneys, Brown, LLC, hereby brings this Collective and Class Action Complaint against Defendant Traffic Engineering Services, LLC, alleges of his own knowledge and conduct and upon information and belief as to all other matters, as follows:

INTRODUCTION

1. Plaintiff brings this action for himself and all other similarly situated collective members to recover unpaid overtime compensation, liquidated damages, and reasonable attorneys' fees and costs as a result of Defendant's willful violation of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §201 *et seq.* and attendant regulations at 29 C.F.R. § 516, *et seq.*

2. Plaintiff also brings this action for himself and on behalf of all other similarly situated Rule 23 class members to recover unpaid straight time and overtime wages, liquidated damages, pre- and post-judgment interest, and reasonable attorneys' fees and costs as a result of Defendant's willful violation of the Pennsylvania Minimum Wage Act, 43 P.S. § 333.101, *et seq.* ("PMWA") and attendant regulations, 34 Pa. Code § 231.1, *et seq.* as well as the Pennsylvania Wage Payment and Collection Law, 43 P.S. § 260.1, *et seq.* ("WPCL").

3. Defendant is a MBE/DBE certified company providing “traffic control” and “traffic planning” services in MD, VA, DE and PA.¹

4. Plaintiff and the putative FLSA collective and Rule 23 class members were hourly-paid traffic control workers including flaggers, crew leaders and TMA² operators employed by Defendant to perform traffic control services at the various clients’ job sites.

5. Defendant implemented a company-wide policy of automatically deducting 30 minutes of pay per workday for meal break irrespective of whether the traffic control workers received *bona fide* meal breaks, i.e., completely relieved from duties for the purposes of eating regular meals. *See* 29 CFR § 785.19; 34 Pa. Code § 231.1.

6. Additionally, according to the agreement set forth in the employee handbook, when the workers finish work early at the clients’ sites, they are entitled to continue on the clock at Defendant’s warehouse until the end of their scheduled work day, and to be paid for the entire scheduled time.

7. However, in practice, Defendant simply sent the workers home and refused to compensate them for the rest of their scheduled time, even though they were ready and able to work at Defendant’s warehouse. Meanwhile, Defendant was still paid by the clients as though the workers had been on-site for their entire scheduled time.

8. Defendant violated its statutory and contractual obligations by failing pay the traffic control workers including Plaintiff their entitled straight time wages and overtime at a rate of not less than one and one-half (1.5) times their regular rate of pay for hours they worked in excess of forty (40) per week.

9. Plaintiff asserts the FLSA claims on behalf of a putative FLSA collective, defined

¹ *See* Defendant’s website: <http://go-tes.com/> (last accessed October 23, 2018).

² “Truck-Mounted Attenuator”.

as:

All hourly-paid traffic control workers including flaggers, crew leaders and TMA operators employed by Defendant at any time from the (3) years prior to the filing of this Complaint through the date of judgment.

10. Plaintiff seeks to send a Notice pursuant to 29 U.S.C. § 216(b) to the hourly-paid traffic control workers of Defendant permitting them to assert FLSA claims in this collective action by filing their individual consent forms.

11. Plaintiff asserts the PMWA and WPCL claims on behalf of a putative class pursuant to Fed. R. Civ. P. 23, defined as:

All hourly-paid traffic control workers including flaggers, crew leaders and TMA operators employed by Defendant in the Commonwealth of Pennsylvania at any time from the (3) years prior to the filing of this Complaint through the date of judgment.

12. Defendant has willfully and intentionally committed widespread violations of the above-described statutes and corresponding regulations, in the manner described herein.

JURISDICTION AND VENUE

13. This Court has subject-matter jurisdiction over Plaintiff's FLSA claims pursuant to 28 U.S.C. § 1331 because Plaintiff's claims raise a federal question under 29 U.S.C. § 201, *et seq.*

14. This Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. §1367 because those claims derive from a common nucleus of operative facts as Plaintiff's federal claims.

15. The Court has personal jurisdiction over Defendant because it engaged in systematic and continuous contacts with the State of Pennsylvania by, *inter alia*, employing individuals to work out of Pennsylvania, including Plaintiff, and Plaintiff's claims arise out of those contacts.

16. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c) because Defendant employed Plaintiff in this district and because a substantial portion of the events that give rise to the Plaintiff's claims occurred in this district.

PARTIES

17. Defendant Traffic Engineering Services, LLC is a for-profit entity created and existing under and by virtue of the laws of the State of Maryland.

18. According to the Pennsylvania Department of State website, Defendant maintains an address in the Commonwealth of Pennsylvania at 6860 North Route 309 Coopersburg, PA 18036 Lehigh.

19. According to its own website, Defendant maintains a place of business in the Commonwealth of Pennsylvania at 4670 Shantz Road, Allentown, PA 18104.³

20. Plaintiff Alex Bellaus ("Bellaus") is a resident of the County of Warren and State of New Jersey.

21. Bellaus was employed by Defendant as an hourly-paid traffic control worker from approximately October 2017 through August 17, 2018.

22. Bellaus was an hourly-paid flagger from approximately October 2017 to March 12, 2018, during which his base rate of pay was \$13 an hour.

23. Bellaus was an hourly-paid crew leader from approximately March 13, 2018 to April 2018, during which his base rate of pay was \$15 an hour.

24. Bellaus was an hourly-paid TMA operator from approximately May 2018 to August 17, 2018, during which his base rate of pay was \$17 an hour.

25. Throughout Bellaus's employment with Defendant, Bellaus reported to

³ See Defendant's website: <http://go-tes.com/contact-us> (last accessed October 23, 2018).

Defendant's warehouse at 4670 Shantz Road, Allentown, PA 18104 on a daily basis at the beginning and the end of each workday.

26. Bellaus's written consent to become an FLSA party plaintiff is attached hereto as **Exhibit A.**

FACTUAL ALLEGATIONS

27. Defendant has operated and controlled an enterprise engaged in commerce as defined under the FLSA.

28. Defendant has generated over \$500,000 in revenue per year.

29. Defendant has had two (2) or more employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce.

30. Defendant has engaged in ordinary commercial activities within the meaning of the FLSA that result in sales made or business done.

31. Defendant was/is the "employer" of the traffic control workers including Plaintiff within the meaning of 29 U.S.C. § 203(d) of the FLSA, 43 P.S. § 333.103(g) of the PMWA and 43 P.S. § 260.2a. of the WPCL.

32. The traffic control workers including Plaintiff were/are "employees" of Defendant within the meaning of 29 U.S.C. § 203(e)(1) of the FLSA and 43 P.S. § 333.103(h) of the PMWA.

33. Defendant "suffered or permitted" the traffic control workers including Plaintiff to work and thus "employed" them within the meaning of 29 U.S.C. §203(g) of the FLSA and 43 P.S. § 333.103(f) of the PMWA.

34. Defendant, directly or indirectly, hired the traffic control workers including Plaintiff and determined the rate and method of the payment of their wages.

35. Defendant controlled the work schedules, duties, protocols, applications, assignments and conditions of employment of the traffic control workers including Plaintiff.

36. Defendant employed the traffic control workers including Plaintiff to perform traffic control and traffic planning work at the various sites of Defendant's clients such as FirstEnergy Corp, Carr & Duff, Inc., etc.

37. The traffic control workers including Plaintiff performed primary job duties that do not fall within any exemptions from overtime under the FLSA and PMWA.

38. The traffic control workers reported to Defendant's warehouse and/or office at the beginning of each workday and drove the company vehicle to the Defendant's clients' job sites to perform work.

39. After they finished the work at the Defendant's clients' job sites, the traffic control workers drove the company vehicle back to Defendant's warehouse and/or office.

40. Plaintiff regularly worked 5 days a week and occasionally worked extra days on the weekends.

41. The traffic control workers including Plaintiff reported their time through a time-recording system ExakTime Mobile.

42. Defendant implemented a company-wide policy of automatically deducting 30 minutes of pay per workday for meal break irrespective of whether the traffic control workers received *bona fide* meal breaks, i.e., completely relieved from duties for the purposes of eating regular meals. See 29 CFR § 785.19; 34 Pa. Code § 231.1.

43. Due to the nature of their work, the traffic control workers including Plaintiff regularly worked through meal breaks and did not receive *bona fide* meal breaks.

44. Plaintiff regularly reported that he did not take meal breaks but the company

automatically deducted 30 minutes of pay per workday no matter whether the traffic control workers received *bona fide* meal breaks.

45. Additionally, according to the agreement set forth in the employee handbook, when the workers finish work early at the customers' sites, they are entitled to continue on the clock at Defendant's warehouse until the end of their scheduled work day, and to be paid for the entire scheduled time.

46. However, in practice, Defendant simply sent the workers home and refused to compensate them for the rest of their scheduled time, even though they were ready and able to work at Defendant's warehouse. Meanwhile, Defendant was still paid by the customers as though the workers had been on-site for their entire scheduled time.

47. Defendant violated its statutory and contractual obligations by failing pay the traffic control workers including Plaintiff their entitled straight time wages and overtime at a rate of not less than one and one-half (1.5) times their regular rate of pay for hours they worked in excess of forty (40) per week.

48. Plaintiff and other similarly situated traffic control workers were subjected to the common unlawful policies and practices of Defendant as stated herein that violated the FLSA, PMWA and WPCL.

49. Defendant's wrongful acts and/or omissions/commissions, as alleged herein, were not made in good faith, or in conformity with or in reliance on any written administrative regulation, order, ruling, approval, or interpretation by the state and/or U.S. Department of Labor and/or any state department of labor, or any administrative practice or enforcement practice or enforcement policy of such departments.

50. Defendant's violations of the above-described federal and state wage and hour

statutes and regulations were willful, arbitrary, unreasonable and in bad faith.

COLLECTIVE ACTION ALLEGATIONS

51. Plaintiff re-alleges and incorporates all previous paragraphs herein.

52. Plaintiff brings this action pursuant to Section 216(b) of the FLSA, as an opt-in representative action, for and on behalf of all hourly-paid traffic control workers including flaggers, crew leaders and TMA operators who have been affected by Defendant's common unlawful policies and practices which include failure to pay overtime compensation, in violation of the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* ("FLSA") and attendant regulations at 29 C.F.R. § 516, *et seq.*

53. Plaintiff brings this action pursuant to 29 U.S.C. § 216(b) of the FLSA on his own behalf and on behalf of:

All hourly-paid traffic control workers including flaggers, crew leaders and TMA operators employed by Defendant at any time from the (3) years prior to the filing of this Complaint through the date of judgment.

Plaintiff reserves the right to amend this definition as necessary.

54. Plaintiff brings this collective action against Defendant to recover unpaid overtime compensation, liquidated damages, and reasonable attorneys' fees and costs pursuant to 29 U.S.C. § 216(b).

55. The collective action further alleges a willful violation of the FLSA and seeks an additional, third year of limitations.

56. Plaintiff seeks to send Notice to the traffic control workers of Defendant permitting them to assert FLSA claims in this collective action by filing their individual consent forms, as provided by 29 U.S.C. § 216(b) and supporting case law.

57. Certification of the collective action under the FLSA is appropriate because the

employees described herein are “similarly situated” to Plaintiff under 29 U.S.C. § 216(b). The class of employees on behalf of whom Plaintiff brings this collective action are similarly situated because: (a) they had the same job positions and performed the same or similar job duties as one another on behalf of Defendant; (b) they were subject to the same or similar unlawful policies and practices as stated herein; and (c) their claims are based upon the same factual and legal theories.

58. Plaintiff anticipates that there will be no difficulty in the management of this litigation. This litigation presents claims under the FLSA, a type that have often been prosecuted on a class wide basis, and the manner of identifying the collective and providing any monetary relief to it can be effectuated from a review of Defendant’s records.

59. Plaintiff and the putative FLSA collective members demand a trial by jury.

RULE 23 CLASS ACTION ALLEGATIONS

60. Plaintiff re-alleges and incorporates all previous paragraphs herein.

61. Plaintiff also seeks to maintain this action pursuant to Fed. R. of Civ. P. 23, as an opt-out class action, for an on behalf all hourly-paid traffic control workers including flaggers, crew leaders and TMA operators who have been affected by Defendant’s common unlawful policies and practices which include failure to pay straight time and overtime wages, in violation of the Pennsylvania Minimum Wage Act, 43 P.S. § 333.101, *et seq.* (“PMWA”) and attendant regulations, 34 Pa. Code § 231.1, *et seq.* as well as the Pennsylvania Wage Payment and Collection Law, 43 P.S. § 260.1, *et seq.* (“WPCL”).

62. Plaintiff brings this Rule 23 class action on his own behalf and on behalf of:

All hourly-paid traffic control workers including flaggers, crew leaders and TMA operators employed by Defendant in the Commonwealth of Pennsylvania at any time from thee (3) years prior to the filing of this Complaint through the date of judgment.

Plaintiff reserves the right to amend this definition as necessary.

63. Plaintiff brings this Rule 23 class action against Defendant to recover unpaid straight time and overtime wages, liquidated damages, pre- and post-judgment interest, and reasonable attorneys' fees and costs pursuant to the PMWA and WPCL.

64. The members of the Rule 23 class are so numerous that joinder of all class members in this case would be impractical. Plaintiff reasonably estimates that there are a substantial number of class members in the Commonwealth of Pennsylvania. The Rule 23 class members should be easy to identify from Defendant's payroll and personnel records.

65. There is a well-defined community of interest among the Rule 23 class members and common questions of law and fact predominate in this action over any questions affecting each individual class member.

66. Plaintiff's claims are typical of those of the Rule 23 class members in that they and all other class members suffered damages as a direct and proximate result of Defendant's common and systemic payroll policies and practices. All of the class members were subject to the same corporate practices of Defendant, as alleged herein, of failing to pay straight time and overtime wages. Any lawsuit brought by an employee of Defendant would be identical to a suit brought by any other employee for the same violations and separate litigation would cause a risk of inconsistent results.

67. Plaintiff was employed by Defendant in the same capacity as all of the class members. All class members were treated the same or similarly by management with respect to pay or lack thereof. This treatment included, but was not limited to, failure to pay straight time and overtime wages. Thus, there are common questions of law and fact which are applicable to each and every one of the class members.

68. Plaintiff will fully and adequately protect the interests of the class members and have retained counsel who are qualified and experienced in the prosecution of nationwide wage and hour class actions. Plaintiff and his counsel do not have interests that are contrary to, or conflicting with, the interests of the class members.

69. Defendant's corporate-wide policies and practices affected all class members similarly, and Defendant benefited from the same type of unfair and/or wrongful acts as to each class member. Plaintiff's claim arises from the same legal theories as all other class members. Therefore, this case will be more manageable and efficient as a Rule 23 class action. Plaintiff and his counsel know of no unusual difficulties in this case.

70. Plaintiff and the Rule 23 class members demand a trial by jury.

COUNT I
(29 U.S.C. § 216(b) Individual Claim)
Violation of the Fair Labor Standards Act, 29 U.S.C. § 201, et seq.
Failure to Pay Overtime Wages

71. Plaintiff re-alleges and incorporates all previous paragraphs herein.

72. 29 U.S.C. § 207(a)(1) provides:

[N]o employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

73. Defendant implemented a company-wide policy of automatically deducting 30 minutes of pay per workday for meal break irrespective of whether Plaintiff received *bona fide* meal breaks, i.e., completely relieved from duties for the purposes of eating regular meals.

74. Plaintiff regularly worked through meal breaks and did not receive *bona fide* meal

breaks.

75. Additionally, Defendant improperly sent Plaintiff home early and refused to compensate Plaintiff for the full scheduled work time, even though he was ready and able to work. Meanwhile, Defendant was still paid by the clients as though Plaintiff had been on-site for his entire scheduled time.

76. Defendant failed to pay Plaintiff overtime compensation at a rate not less than one and one-half (1.5) times his regular rate of pay for hours he worked in excess of forty (40) per workweek.

77. Defendant's conduct and practices, described herein, were willful, intentional, unreasonably, arbitrary, and in bad faith.

78. Because Defendant willfully violated the FLSA, a three (3) year statute of limitations shall apply to such violation pursuant to 29 U.S.C. § 255(a).

79. As a result of Defendant's uniform and common policies and practices described above, Plaintiff was illegally deprived of overtime compensation earned, in such amounts to be determined at trial, and is entitled to recovery of such total unpaid amounts, liquidated damages, reasonable attorneys' fees, costs and other compensation pursuant to 29 U.S.C § 216(b).

COUNT II
(29 U.S.C. § 216(b) Collective Action Claim)
Violation of the Fair Labor Standards Act, 29 U.S.C. § 201, et seq.
Failure to Pay Overtime Wages

80. Plaintiff re-alleges and incorporates all previous paragraphs herein.

81. 29 U.S.C. § 207(a)(1) provides:

[N]o employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives

compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

82. Defendant implemented a company-wide policy of automatically deducting 30 minutes of pay per workday for meal break irrespective of whether Plaintiff and the putative FLSA collective members received *bona fide* meal breaks, i.e., completely relieved from duties for the purposes of eating regular meals.

83. Plaintiff and the putative FLSA collective members regularly worked through meal breaks and did not receive *bona fide* meal breaks.

84. Additionally, Defendant improperly sent Plaintiff and the putative FLSA collective members home early and refused to compensate them for the full scheduled work time, even though they were ready and able to work. Meanwhile, Defendant was still paid by the clients as though Plaintiff and the putative FLSA collective members had been on-site for their entire scheduled time.

85. Defendant failed to pay Plaintiff the FLSA collective members overtime compensation at a rate not less than one and one-half (1.5) times their regular rate of pay for hours they worked in excess of forty (40) per workweek.

86. Defendant's conduct and practices, described herein, were willful, intentional, unreasonably, arbitrary, and in bad faith.

87. Because Defendant willfully violated the FLSA, a three (3) year statute of limitations shall apply to such violation pursuant to 29 U.S.C. § 255(a).

88. As a result of Defendant's uniform and common policies and practices described above, Plaintiff and the FLSA collective members were illegally deprived of overtime wages earned, in such amounts to be determined at trial, and are entitled to recovery of such total

unpaid amounts, liquidated damages, reasonable attorneys' fees, costs and other compensation pursuant to 29 U.S.C § 216(b).

**COUNT III
(Individual Claim)**

**Violation of the Pennsylvania Minimum Wage Act, 43 P.S. § 333.101, et seq.
Failure to Pay Overtime Wages**

89. Plaintiff re-alleges and incorporates all previous paragraphs herein.

90. Defendant implemented a company-wide policy of automatically deducting 30 minutes of pay per workday for meal break irrespective of whether Plaintiff received *bona fide* meal breaks, i.e., completely relieved from duties for the purposes of eating regular meals.

91. Plaintiff regularly worked through meal breaks and did not receive *bona fide* meal breaks.

92. Additionally, Defendant improperly sent Plaintiff home early and refused to compensate Plaintiff for the full scheduled work time, even though he was ready and able to work. Meanwhile, Defendant was still paid by the clients as though Plaintiff had been on-site for his entire scheduled time.

93. Defendant failed to pay Plaintiff overtime compensation at a rate not less than one and one-half (1.5) times his regular rate of pay for hours he worked in excess of forty (40) per workweek.

94. Defendant's conduct and practices, described herein, were willful, intentional, unreasonably, arbitrary, and in bad faith.

95. As a result of Defendant's uniform and common policies and practices described above, Plaintiff was illegally deprived of overtime compensation earned, in such amounts to be determined at trial, and are entitled to recovery of such total unpaid amounts, pre- and post-judgment interest, reasonable attorneys' fees, costs and other compensation pursuant to

PMWA.

COUNT IV
(Fed R. Civ. P. 23 Class Action Claim)
Violation of the Pennsylvania Minimum Wage Act, 43 P.S. § 333.101, et seq.
Failure to Pay Overtime Wages

96. Plaintiff re-alleges and incorporates all previous paragraphs herein.

97. Defendant implemented a company-wide policy of automatically deducting 30 minutes of pay per workday for meal break irrespective of whether Plaintiff and the putative Rule 23 class members received *bona fide* meal breaks, i.e., completely relieved from duties for the purposes of eating regular meals.

98. Plaintiff and the putative Rule 23 class members regularly worked through meal breaks and did not receive *bona fide* meal breaks.

99. Additionally, Defendant improperly sent Plaintiff and the putative Rule 23 class members home early and refused to compensate them for the full scheduled work time, even though they were ready and able to work. Meanwhile, Defendant was still paid by the clients as though Plaintiff and the putative Rule 23 class members had been on-site for their entire scheduled time.

100. Defendant failed to pay Plaintiff the Rule 23 class members overtime compensation at a rate not less than one and one-half (1.5) times their regular rate of pay for hours they worked in excess of forty (40) per workweek.

101. Defendant's conduct and practices, described herein, were willful, intentional, unreasonably, arbitrary, and in bad faith.

102. As a result of Defendant's uniform and common policies and practices described above, Plaintiff and the Rule 23 class members were illegally deprived of overtime compensation earned, in such amounts to be determined at trial, and are entitled to recovery of such total

unpaid amounts, pre- and post-judgment interest, reasonable attorneys' fees, costs and other compensation pursuant to PMWA.

COUNT V
(Individual Claim)

Violation of the Pennsylvania Wage Payment and Collection Law, 43 P.S. § 260.1, et seq.
Failure to Pay Straight Time and Overtime Wages

103. Plaintiff re-alleges and incorporates all previous paragraphs herein.

104. Defendant implemented a company-wide policy of automatically deducting 30 minutes of pay per workday for meal break irrespective of whether Plaintiff received *bona fide* meal breaks, i.e., completely relieved from duties for the purposes of eating regular meals.

105. Plaintiff regularly worked through meal breaks and did not receive *bona fide* meal breaks.

106. Additionally, Defendant improperly sent Plaintiff home early and refused to compensate Plaintiff for the full scheduled work time, even though he was ready and able to work. Meanwhile, Defendant was still paid by the clients as though Plaintiff had been on-site for his entire scheduled time.

107. Defendant violated its statutory and contractual obligations by failing to pay Plaintiff his entitled straight time wages and overtime at a rate of not less than one and one-half (1.5) times his regular rate of pay for hours he worked in excess of forty (40) per week.

108. Defendant's conduct and practices, described herein, were willful, intentional, unreasonably, arbitrary, and in bad faith.

109. As a result of Defendant's uniform and common policies and practices described above, Plaintiff was illegally deprived of straight time and overtime wages earned, in such amounts to be determined at trial, and are entitled to recovery of such total unpaid amounts, liquidated damages, pre- and post-judgment interest, reasonable attorneys' fees, costs and other

compensation pursuant to WPCL.

COUNT VI
(Fed R. Civ. P. 23 Class Action Claim)
Violation of the Pennsylvania Wage Payment and Collection Law, 43 P.S. § 260.1, et seq.
Failure to Pay Straight Time and Overtime Wages

110. Plaintiff re-alleges and incorporates all previous paragraphs herein.

111. Defendant implemented a company-wide policy of automatically deducting 30 minutes of pay per workday for meal break irrespective of whether Plaintiff and the putative Rule 23 class members received *bona fide* meal breaks, i.e., completely relieved from duties for the purposes of eating regular meals.

112. Plaintiff and the putative Rule 23 class members regularly worked through meal breaks and did not receive *bona fide* meal breaks.

113. Additionally, Defendant improperly sent Plaintiff and the putative Rule 23 class members home early and refused to compensate them for the full scheduled work time, even though they were ready and able to work. Meanwhile, Defendant was still paid by the clients as though Plaintiff and the putative Rule 23 class members had been on-site for their entire scheduled time.

114. Defendant violated its statutory and contractual obligations by failing to pay Plaintiff and the putative Rule 23 class members their entitled straight time wages and overtime at a rate of not less than one and one-half (1.5) times their regular rate of pay for hours they worked in excess of forty (40) per week.

115. Defendant's conduct and practices, described herein, were willful, intentional, unreasonably, arbitrary, and in bad faith.

116. As a result of Defendant's uniform and common policies and practices described above, Plaintiff and the Rule 23 class members were illegally deprived of straight time and

overtime wages earned, in such amounts to be determined at trial, and are entitled to recovery of such total unpaid amounts, liquidated damages, pre- and post-judgment interest, reasonable attorneys' fees, costs and other compensation pursuant to WPCL.

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief against Defendant:

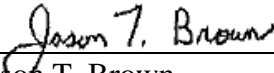
- (A) A declaratory judgment that Defendant's wage practices alleged herein violate the overtime provisions of the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*, and attendant regulations at 29 C.F.R. § 516, *et seq.*;
- (B) A declaratory judgment that Defendant's wage practices alleged herein violate the Pennsylvania Minimum Wage Act, 43 P.S. § 333.101, *et seq.* and attendant regulations, 34 Pa. Code § 231.1, *et seq.* as well as the Pennsylvania Wage Payment and Collection Law, 43 P.S. § 260.1, *et seq.*;
- (C) An Order for injunctive relief ordering Defendant to comply with the FLSA, PMWA and WPCL and end all of the illegal wage practices alleged herein;
- (D) Certifying this case as a collective action in accordance with 29 U.S.C. § 216(b) with respect to the FLSA claims set forth herein;
- (E) Certifying this action as a class action pursuant to Fed R. Civ. P. 23 with respect to the PMWA and WPCL claims set forth herein;
- (F) Ordering Defendant to disclose in computer format, or in print if no computer readable format is available, the names, addresses, e-mail addresses, telephone numbers, dates of birth, job titles, dates of employment and locations of employment of all FLSA collective and Rule 23 class members;

- (G) Authorizing Plaintiff's counsel to send notice(s) of this action to all FLSA collective and Rule 23 class members, including the publishing of notice in a manner that is reasonably calculated to apprise the FLSA collective members of their rights by law to join and participate in this lawsuit;
- (H) Designating Lead Plaintiff as the representatives of the FLSA collective and Rule 23 class in this action;
- (I) Designating the undersigned counsel as counsel for the FLSA collective and Rule 23 Class in this action;
- (J) Judgment for damages for all unpaid overtime wages and liquidated damages to which Plaintiff and the FLSA collective members are lawfully entitled under the FLSA, 29 U.S.C. § 201, *et seq.*, and attendant regulations at 29 C.F.R. § 516, *et seq.*;
- (K) Judgment for damages for all unpaid straight time and overtime wages, liquidated damages and pre- and post-judgment interest to which Plaintiff and the Rule 23 class members are lawfully entitled under the Pennsylvania Minimum Wage Act, 43 P.S. § 333.101, *et seq.* and attendant regulations, 34 Pa. Code § 231.1, *et seq.* as well as the Pennsylvania Wage Payment and Collection Law, 43 P.S. § 260.1, *et seq.*;
- (L) An incentive award for the Lead Plaintiff for serving as representative of the FLSA collective and Rule 23 class in this action;
- (M) Awarding reasonable attorneys' fees and costs incurred by Plaintiff in this action as provided by the FLSA, PMWA and WPCL;
- (N) Judgment for any and all civil penalties to which Plaintiff and the FLSA collective and Rule 23 class members may be entitled; and
- (O) Such other and further relief as to this Court may deem necessary, just and proper.

JURY DEMAND

Plaintiff, individually and on behalf of all other FLSA collective and Rule 23 class members, by and through his attorneys, hereby demand a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure and the court rules and statutes made and provided with respect to the above entitled claims.

Dated: October 26, 2018



Jason T. Brown
Nicholas Conlon (*pro hac vice pending*)
Ching-Yuan (“Tony”) Teng (*pro hac vice pending*)
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Attorneys for Plaintiff

EXHIBIT

A

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
CREDIT CARD COLLECTION NETWORK**

AUTHORIZATION FORM

JTB Law Group, LLC -for complaint filing fee \$400

(Name of Company/Firm)

hereby authorizes the United States District Court for the Eastern District of Pennsylvania to charge the following bank credit card number for payment of filing fees and other court-related expenses.

PLEASE PRINT:

Visa No.: _____ Exp. Date: _____

MasterCard No.: _____ Exp. Date: _____

American Express No.: 372719023301026 Exp. Date: 11/20

Other: _____ Exp. Date: _____

Name: Ching-Yuan Teng, JTB Law Group, LLC

Address: 68 Independence Way

City: Jersey City State: NJ Zip Code: 07305

Phone No.: (877) 561-0000 Fax No.: (855) 582-5297

This information form shall remain in effect until specifically revoked in writing. It is the responsibility of the firm/company named herein to notify the Clerk's Office of the new expiration date when a credit card has been renewed, or if a credit card has been cancelled or revoked.

Signature (Firm's Partner):  _____ Date: 10/26/2018

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Traffic Engineering Services Owes Unpaid Straight-Time, OT Wages, Lawsuit Claims](#)
