

**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA**

**ORMAND R. BROOKS,  
individually and on behalf of others  
similarly situated,**

**Plaintiff,**

**v.**

**Civil Action No. 5:18-cv-00523**

**ARCH COAL, INC.,**

**Defendant.**

**COMPLAINT**

NOW COMES Plaintiff Ormand R. Brooks, by and through his undersigned counsel, and files this Complaint against Defendant Arch Coal, Inc. making a claim to recover unpaid overtime wages under the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 *et seq.*, individually and on behalf of others similarly situated as provided in 29 U.S.C § 216(b), stating as follows:

**PARTIES**

1. Plaintiff Ormand R. Brooks (“Plaintiff Brooks”) is an individual residing in Bastian, Bland County, Virginia.

2. Defendant Arch Coal, Inc. (“Defendant Arch Coal”) is a for-profit corporation, organized pursuant to the laws of the State of Delaware, and authorized to do business in the State of West Virginia.

3. Defendant Arch Coal has a principal office located at One CityPlace Drive, Suite 300, St. Louis, Missouri 63141.

4. Defendant Arch Coal has a local West Virginia office located at 7 Player Club Drive, Charleston, West Virginia 25311.

5. Defendant Arch Coal owns and operates an underground coal mine known as the Beckley Complex, located 2221 Old Eccles Road, Beckley, West Virginia 25836 (“Beckley Complex”).

6. Defendant Arch Coal is a leading producer of metallurgical coal in Appalachia and the second largest producer of thermal coal in the Powder River Basin, and operates large-scale mining complexes in West Virginia, Wyoming, Colorado and Illinois.

7. At all relevant times, Defendant Arch Coal was acting through its agents, supervisors, directors, officers, employees and assigns, and within the full scope of such agency, office, employment, or assignment.

#### **JURISDICTION AND VENUE**

8. This Court has subject matter jurisdiction over Plaintiff’s claim under the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 *et seq.* (“FLSA”) pursuant to 28 U.S.C. § 1331 because this claim arises under the laws of the United States.

9. At all relevant times, Plaintiff, and similarly situated employees, were employees of Defendant Arch Coal at Defendant’s Beckley Complex located in Beckley, West Virginia.

10. Venue is appropriate in the U.S. District Court for the Southern District of West Virginia pursuant to 28 U.S.C. § 1391(b) because Defendant Arch Coal resides in this judicial district and a substantial part of the events or omissions giving rise to Plaintiff’s claims occurred in this judicial district.

**FACTS**

11. Plaintiff Brooks was hired by Defendant Arch Coal in or about January 2009, and he worked at the Beckley Complex from his hiring until on or about March 9, 2018.

12. During his entire term of employment by Defendant Arch Coal, Plaintiff Brooks worked in “Safety Compliance” at the Beckley Complex.

13. During his entire term of employment by Defendant Arch Coal, Plaintiff Brooks was paid a salary, and Defendant Arch Coal treated Plaintiff Brooks as an “exempt” employee and did not pay Plaintiff Brooks overtime wages for hours worked over 40 hours in a workweek.

14. During the relevant time period, Plaintiff Brooks’ bi-weekly salary was approximately \$4,038.00.

15. During his entire term of employment by Defendant Arch Coal, Plaintiff Brooks typically worked 50 or more hours per work week.

16. Plaintiff Brooks’ work hours included hours during which Plaintiff Brooks, and other salaried employees, were told they had to “work for free.”

17. Plaintiff Brooks’ actual job duties in “Safety Compliance” did not qualify him for any exemption from the overtime provisions of the FLSA and he was, therefore, at all relevant times a non-exempt employee entitled to overtime pay for each hour worked over forty hours in a workweek.

18. In addition to paying Plaintiff Brooks a salary, Defendant Arch Coal paid Plaintiff Brooks periodic safety and extra shift bonuses.

19. The periodic safety and extra shift bonuses should have been included in the calculation of Plaintiff Brooks’ “regular rate” and, consequently, in the calculation of the “overtime rate” to be which Plaintiff Brooks was entitled.

20. Plaintiff Brooks was also denied contributions to his 401K Plan which would have been made by Defendant Arch Coal if he had been paid all the overtime wages to which he was entitled.

**(Similarly Situated Employees)**

21. During the relevant time period, Defendant Arch Coal has employed approximately 5 employees in “Safety Compliance” at the Beckley Complex who are similarly situated to Plaintiff Brooks.

22. The similarly situated employees have had duties similar to the duties of Plaintiff Brooks, have worked under similar conditions and similar work schedules as Plaintiff Brooks, have been non-exempt employees entitled to overtime wages similar to Plaintiff Brooks, have been unlawfully treated by Defendant Arch Coal as exempt employees in a manner similar to Plaintiff Brooks, and have been unlawfully denied overtime wages by Defendant Arch Coal in a manner similar to Plaintiff Brooks.

**COUNT ONE: CLAIM FOR UNPAID OVERTIME WAGES UNDER THE FAIR LABOR STANDARDS ACT**

23. Plaintiff incorporates by reference Paragraphs 1 through 22 of this Complaint as if fully set forth herein.

24. Defendant Arch Coal is an “employer” as defined in the Fair Labor Standards Act of 1938 (“FLSA”) at 28 U.S.C. § 203.

25. Defendant Arch Coal is an “enterprise engaged in commerce” as defined in the FLSA at 28 U.S.C. § 203.

26. Plaintiff Brooks is an “employee” as defined in the FLSA at 28 U.S.C. § 203.

27. Defendant was required to pay Plaintiff Brooks, and all similarly situated employees, overtime wages at a rate of one and one-half times Plaintiff's and the similarly situated employees' regular rates for all hours worked in excess of 40 hours in a work week pursuant to the FLSA, 28 U.S.C. § 207.

28. Defendant failed to pay Plaintiff Brooks, and all similarly situated employees, all overtime wages due and owing to Plaintiff and the similarly situated employees in violation of the FLSA, 28 U.S.C. § 207.

29. Defendant Arch Coal's failure to pay wages and overtime wages in violation of the FLSA was willful.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Brooks, individually and on behalf of similarly situated employees, prays for the following relief:

- (a) That this Court certify this action as an FLSA collective action and certify a class of employees similarly situated to Plaintiff Brooks;
- (b) That Plaintiff Brooks be designated as the collective class representative;
- (c) That Plaintiff Brooks and the certified class may have a trial by jury;
- (d) That Plaintiff Brooks and the certified class be awarded all damages provided by law, including but not limited to, unpaid overtime wages;
- (e) That Plaintiff Brooks and the certified class be awarded liquidated damages as provided by the FLSA;
- (f) That Plaintiff Brooks and the certified class be awarded attorneys' fees and costs; and,

- (g) That Plaintiff Brooks and the certified class be awarded such other relief as this Court may deem as just and equitable.

**ORMAND R. BROOKS,**

By Counsel

*s/ Mark Goldner*

---

Mark Goldner, Esq. (WV State Bar No. 11286)  
Maria W. Hughes, Esq. (WV State Bar No. 7298)  
HUGHES & GOLDNER, PLLC  
10 Hale Street, Second Floor  
Charleston, WV 25301  
TEL: (304) 400-4816  
FAX: (304) 205-7729  
[mark@wvemploymentrights.com](mailto:mark@wvemploymentrights.com)  
[maria@wvemploymentrights.com](mailto:maria@wvemploymentrights.com)

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.)

<p><b>I. (a) PLAINTIFFS</b></p> <p>ORMAND R. BROOKS</p> <p><b>(b)</b> County of Residence of First Listed Plaintiff <u>Bland County, VA</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p><b>(c)</b> Attorneys <i>(Firm Name, Address, and Telephone Number)</i> Mark Goldner, Esq./Maria W. Hughes, Esq. Hughes &amp; Goldner PLLC, PO Box 11662, Charleston, WV 25339, PH: 304-400-4816</p>	<p><b>DEFENDANTS</b></p> <p>ARCH COAL, INC.</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
--	--

<p><b>II. BASIS OF JURISDICTION</b> <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		<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
	<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.

<b>CONTRACT</b>	<b>TORTS</b>	<b>FORFEITURE/PENALTY</b>	<b>BANKRUPTCY</b>	<b>OTHER STATUTES</b>
<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	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<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
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>LABOR</b>	<b>PROPERTY RIGHTS</b>	<b>SOCIAL SECURITY</b>
<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	<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	<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<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>PRISONER PETITIONS</b>	<b>IMMIGRATION</b>	<b>FEDERAL TAX SUITS</b>	
	<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	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

**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):*  
FLSA of 1938, 29 USC 201 et seq.

Brief description of cause:  
unpaid 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 4/3/18    SIGNATURE OF ATTORNEY OF RECORD Mark Goldner

FOR OFFICE USE ONLY

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

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Former Employee's Class Action Digs into Arch Coal's Pay Practices](#)

---