

JS 44 (Rev. 06/17)

GEKP

CIVIL COVER SHEET

17-G-3423

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. 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

GWENDOLYN HALL, on behalf of herself and others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Winebrake & Santillo, LLC, 715 Twining Road, Suite 211, Dresher, PA 19025; (215) 884-2491.

DEFENDANTS

ACCOLADE, INC.

17 3423

County of Residence of First Listed Defendant Montgomery
(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)

	PTF	DEF		PTF	DEF
Citizen of This State	1	1	Incorporated or Principal Place of Business In This State	4	4
Citizen of Another State	2	2	Incorporated and Principal Place of Business In Another State	5	5
Citizen or Subject of a Foreign Country	3	3	Foreign Nation	6	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	<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"/> 700 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):
29 U.S.C. § 201, et. seq - FAIR LABOR STANDARDS ACT
 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 AUG - 1 2017

DATE

7/31/17

SIGNATURE OF ATTORNEY OF RECORD

Peter Winebrake PETER WINEBRAKE

FOR OFFICE USE ONLY

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

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 2522 Regatta Circle, Norristown, PA 19401 ¹⁷ ³⁴²³
Address of Defendant: 660 West Germantown Pike, Suite 250, Plymouth Meeting, PA 19462
Place of Accident, Incident or Transaction: Plymouth Meeting, PA (Montgomery County)
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes No UNKNOWN

Does this case involve multidistrict litigation possibilities? Yes No

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 No
- 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 No
- 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 in this court? Yes No
- 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 No

CIVIL: (Place in ONE CATEGORY ONLY)

- | | |
|---|---|
| <p>A. Federal Question Cases:</p> <ul style="list-style-type: none"> 1. <input type="checkbox"/> Indemnity Contract, Marine Contract, and All Other Contracts 2. <input type="checkbox"/> FELA 3. <input type="checkbox"/> Jones Act-Personal Injury 4. <input type="checkbox"/> Antitrust 5. <input type="checkbox"/> Patent 6. <input type="checkbox"/> Labor-Management Relations 7. <input type="checkbox"/> Civil Rights 8. <input type="checkbox"/> Habeas Corpus 9. <input type="checkbox"/> Securities Act(s) Cases 10. <input checked="" type="checkbox"/> Social Security Review Cases 11. <input checked="" type="checkbox"/> All other Federal Question Cases
(Please specify) <u>FAIR LABOR STANDARDS ACT</u> | <p>B. Diversity Jurisdiction Cases:</p> <ul style="list-style-type: none"> 1. <input type="checkbox"/> Insurance Contract and Other Contracts 2. <input type="checkbox"/> Airplane Personal Injury 3. <input type="checkbox"/> Assault, Defamation 4. <input type="checkbox"/> Marine Personal Injury 5. <input type="checkbox"/> Motor Vehicle Personal Injury 6. <input type="checkbox"/> Other Personal Injury (Please specify) 7. <input type="checkbox"/> Products Liability 8. <input type="checkbox"/> Products Liability — Asbestos 9. <input type="checkbox"/> All other Diversity Cases
(Please specify) _____ |
|---|---|

ARBITRATION CERTIFICATION

(Check Appropriate Category)

PETER WINEBRAKE, counsel of record do hereby certify:
 Pursuant to Local Civil Rule 53.2, Section 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: 7/31/17 Peter Winebrake 80496
Attorney-at-Law Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.
DATE: 7/31/17 Peter Winebrake 80496
Attorney-at-Law Attorney I.D.#

AUG - 1 2017

GEKP

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

CASE MANAGEMENT TRACK DESIGNATION FORM

GWENDOLYN HALL

v.

ACCOLADE, INC.

CIVIL ACTION

17

3423

NO.

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.)
- Standard Management – Cases that do not fall into any one of the other tracks. ()



<u>7/31/17</u>	<u>Peter Winebrake</u>	<u>PLAINTIFF</u>
Date	Attorney-at-law	Attorney for
<u>215-884-2491</u>	<u>215-884-2492</u>	<u>pwinebrake@winebrakelaw.com</u>
Telephone	FAX Number	E-Mail Address

AUG - 1 2017

Handwritten initials and a signature, possibly "Winebrake & Santillo".

Winebrake & Santillo, LLC
Peter Winebrake, Esq.
R. Andrew Santillo, Esq.
Mark J. Gottesfeld, Esq.
715 Twining Road, Suite 211
Dresher, PA 19025
(215) 884-2491

Hardwick Benfer, LLC
Tiffanie C. Benfer, Esq.
Jill L. Walsh, Esq.
179 North Broad Street
Doylestown, PA 18901
(215) 230-1912

17 3423

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

GWENDOLYN HALL, *on behalf of herself*
and others similarly situated,
Plaintiff,

v.

ACCOLADE, INC.,
Defendant.

:
: CIVIL ACTION
:
: NO. _____
:
: JURY TRIAL DEMANDED
:
:
:
:

COMPLAINT - CLASS/COLLECTIVE ACTION

Plaintiff Gwendolyn Hall ("Plaintiff") brings this lawsuit against Defendant Accolade, Inc. ("Defendant"), asserting claims 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 asserts her FLSA claim as a collective action under 29 U.S.C. § 216(b) and asserts her PMWA claim as a class action under Federal Rule of Civil Procedure 23.

JURISDICTION AND VENUE

1. Subject matter jurisdiction over the FLSA claim exists pursuant to 29 U.S.C. §

216(b) and 28 U.S.C. § 1331.

2. Subject matter jurisdiction over the PMWA claim exists pursuant 28 U.S.C. § 1367.

3. Venue in this Court is proper under 28 U.S.C. § 1391.

PARTIES

4. Plaintiff resides in Norristown, Pennsylvania (Montgomery County).

5. Plaintiff is an employee covered by the FLSA and the PMWA.

6. Defendant is a corporation headquartered in Plymouth Meeting, Pennsylvania (Montgomery County).

7. Defendant is an employer covered by the FLSA because, *inter alia*, it employs individuals 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. Defendant also is an employer covered by the PMWA because it is a corporation and directly employed Plaintiff and others within Pennsylvania.

FACTS

8. Defendant provides health insurance administration services to insurance companies and self-insured corporate clients.

9. Defendant employs hundreds of Health Assistants who either work from home or from Defendant's call centers in Pennsylvania, Arizona, and Washington. These Health Assistants generally handle customer service telephone calls from employees and other beneficiaries of the health insurance plans offered by Defendant's customers.

10. Plaintiff was employed by Defendant as a Health Assistant from April 2, 2012 through February 7, 2017.

11. Within the past three years, Plaintiff worked both from her home and from Defendant's Plymouth Meeting, PA call center.

12. Plaintiff and other Health Assistants often work over 40 hours per week.

13. Prior to November 28, 2016, Defendant maintained a company policy of not paying Health Assistants overtime premium compensation for hours worked over 40 per week. Defendant maintained this policy even though, during the pre-November 2016 time period, Health Assistants frequently worked over 40 hours per week. For example, Plaintiff estimates that, prior to November 28, 2016, she worked between 40 and 50 hours during a typical 5-day workweek.

14. On November 28, 2016, Defendant changed its company policy and started paying Health Assistants overtime premium compensation for hours worked over 40 per week. Unfortunately, under this new policy, Defendant fails to give Health Assistants payroll credit for all of their overtime work. For example, Health Assistants received five minutes credit each day to account for time required to log in to the systems, but the log in process took on average 5-15 minutes daily. This ongoing payroll practice results in Health Assistants receiving no compensation for some of their overtime work. For example, Plaintiff estimates that, during the week ending February 3, 2017, she worked approximately 44.25 hours. However, Defendant paid Plaintiff for only 43.72 hours.

15. In engaging in the conduct described above, Defendant acted willfully and with reckless disregard of clearly applicable FLSA provisions.

COLLECTIVE AND CLASS ALLEGATIONS

16. Plaintiff brings her FLSA claim pursuant to 29 U.S.C. § 216(b) on behalf of all individuals, who, during any time within the past three years, have been employed by Defendant

in the United States as Health Assistants.

17. Plaintiff's FLSA claim should proceed as a collective action because Plaintiff and other putative collective members, having worked pursuant to the common timekeeping and 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. Plaintiff brings her PMWA claim as a class action pursuant to Federal Rule of Civil Procedure 23 on behalf of all individuals, who, during any time within the past three years, have been employed by Defendant in Pennsylvania as Health Assistants.

19. 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.

20. The class, upon information and belief, includes hundreds of 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.

21. Plaintiff is a class member, her claims are typical of the claims of other class members, and she has no interests that are antagonistic to or in conflict with the interests of other class members.

22. Plaintiff and her lawyers will fairly and adequately represent the class members and their interests.

23. Questions of law and fact are common to all class members, because, *inter alia*, this action concerns Defendant's common timekeeping and compensation practices, as described herein. The legality of these policies will be determined through the application of common legal principles to common facts.

24. 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 Violations of the FLSA)

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

26. The FLSA requires that employees receive overtime compensation calculated at 150% of their regular pay rate for hours worked over 40 per week.

27. Defendant violated the FLSA by failing to pay Plaintiff and other Health Assistants for (i) any of their overtime work prior to approximately November 28, 2016 and (ii) some (but not all) of their overtime work after approximately November 28, 2016.

28. In violating the FLSA, Defendant has acted willfully and with reckless disregard of clearly applicable FLSA provisions and, as such, has willfully violated the FLSA.

COUNT II
(Alleging Violations of the PMWA)

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

30. The PMWA requires that employees receive overtime premium compensation calculated at 150% of their regular pay rate for all hours worked over 40 per week.

31. Defendant violated the PMWA by failing to pay Plaintiff and other Health Assistants for (i) any of their overtime work prior to approximately November 28, 2016 and (ii) some (but not all) of their overtime work after approximately November 28, 2016.

JURY DEMAND

Plaintiff demands a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself and other members of the class/collective, seeks the following relief:

- A. Orders permitting this action to proceed as a collective and class action;
- B. Unpaid wages (including overtime wages) and prejudgment interest;
- C. Liquidated damages;
- D. Litigation costs, expenses, and attorney's fees; and
- E. Such other and further relief as the Court deems just and proper.

Date: July 31, 2017

Respectfully,



Peter Winebrake
R. Andrew Santillo
Mark J. Gottesfeld
Winebrake & Santillo, LLC
715 Twining Road, Suite 211
Dresher, PA 19025
(215) 884-2491

Tiffanie C. Benfer, Esq.
Jill L. Walsh, Esq.
Hardwick Benfer, LLC
179 North Broad Street
Doylestown, PA 18901
(215) 230-1912

Attorneys for Plaintiff

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Former Health Assistant Sues Accolade Over Allegedly Unpaid Overtime Wages](#)
