

Counsel for Plaintiffs
McCarthy Weisberg Cummings, P.C.
2041 Herr Street
Harrisburg, PA 17103-1624
(717) 238-5707

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

MARK M. SCHOEMAKER, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

BROOKS AUTOMATION, INC.

Defendant.

Case No.: _____

COMPLAINT - COLLECTIVE
ACTION

JURY TRIAL DEMANDED

**THIS FIRM IS A DEBT COLLECTOR AND WE ARE
ATTEMPTING TO COLLECT A DEBT OWED TO OUR
CLIENTS. ANY INFORMATION OBTAINED FROM
YOU WILL BE USED FOR THE PURPOSE OF
COLLECTING THE DEBT.**

COMPLAINT - COLLECTIVE ACTION

Plaintiffs, MARK M. SCHOEMAKER (“Mr. Schoemaker” or “Named Plaintiff”), individually and on behalf of all others similarly situated (collectively “Plaintiffs”), by and through undersigned counsel, McCarthy Weisberg Cummings, P.C., hereby file this Complaint - Collective Action (“Complaint”) against Brooks Automation, Inc. (“Brooks” or “Defendant”) for violations of the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 *et seq.* (“FLSA”), as well as individual claims pursuant to the Pennsylvania Minimum Wage Act of 1968, 43 P.S. § 333.101 *et seq.* (“PMWA”) and the Pennsylvania Wage Payment and Collection Law, 43 P.S. § 260.1 *et seq.* (“PWPCL”), as follows:

PARTIES

A. Named Plaintiff

1. Mr. Schoemaker was employed as a Field Service Engineer at Brooks from on or about July 5, 2011 to on or about August 11, 2017. Mr. Schoemaker is a resident of the Commonwealth of Pennsylvania, residing at 3123 Woodlea Road, Lehigh County, Orefield, Pennsylvania. Mr. Schoemaker’s consent to join the collective action aspect of this lawsuit is attached to this Complaint as Exhibit A.

B. Defendant

2. Brooks is a foreign corporation incorporated in Delaware with a registered address in care of (c/o) Corporation Service Company, 2595 Interstate

Drive, Suite 103, Dauphin County, Harrisburg, Pennsylvania 17110 and a corporate headquarters address of 15 Elizabeth Drive, Middlesex County, Chelmsford, Massachusetts 01824.

3. At all times relevant to this Complaint, Brooks conducted business operations and employed Mr. Schoemaker within the Commonwealth of Pennsylvania.

4. At all times relevant to this Complaint, Brooks has been an employer within the meaning of the FLSA, PMWA, and PWPCCL.

5. At all times relevant to this Complaint, Brooks has been an enterprise within the meaning of the FLSA, 29 U.S.C. § 203(r).

6. At all times relevant to this Complaint, Brooks has been an enterprise engaged in commerce or in the production of goods for commerce within the meaning of the FLSA because it has engaged employees in commerce. 29 U.S.C. § 203(s)(1).

7. Brooks has had, and continues to have, an annual gross income of sales made or business done of not less than \$500,000. 29 U.S.C. § 203(s)(1).

JURISDICTION AND VENUE

8. The FLSA authorizes court actions by private parties to recover damages for violations of the FLSA's wage and hour provisions. Subject matter

jurisdiction over these FLSA claims arises under 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.

9. The PMWA and PWPCCL each provide for a private right of action to enforce their provisions. This Court has supplemental jurisdiction over Pennsylvania state law claims pursuant to 28 U.S.C. § 1367.

10. Venue in this district is proper under 28 U.S.C. § 1391(b) and (c), because Brooks does business in this district and substantial unlawful conduct giving rise to the claims set forth in this Complaint occurred in this district.

BACKGROUND

11. Named Plaintiff and all Plaintiffs opting into the collective action aspect of this lawsuit were field services engineers at Brooks and did not have an advanced engineering degree, and acquired their skill by experience rather than by an advanced specialized intellectual instruction with respect to their job qualifications.

12. Defendant told Named Plaintiff and all Plaintiffs opting into the collective action aspect of this lawsuit that they would earn a salary and would neither be paid by the hour or an overtime rate, although federal and state law requires paying them by the hour and at an overtime rate for hours in excess of forty (40) hours per week.

13. Named Plaintiff and all Plaintiffs opting into the collective action aspect of this lawsuit are entitled to compensation for certain travel time that was integral and indispensable to their work for Defendant as work time.

14. From the date of hire, Named Plaintiff and all Plaintiffs opting into the collective action aspect of this lawsuit frequently had to work in excess of forty (40) hours per week.

15. Defendant willfully refused to pay Named Plaintiff and all Plaintiffs opting into the collective action aspect of this lawsuit overtime for the time they worked in excess of forty (40) hours per week from their date of hire through on or about April 3, 2017, when Defendant reclassified field service engineers as nonexempt under the FLSA.

16. Defendant has willfully violated the FLSA, related federal regulations, and Pennsylvania wage and hour laws through its failure to properly pay Named Plaintiff and all Plaintiffs opting into the collective action aspect of this lawsuit for all overtime hours they have worked. In particular, Named Plaintiff and all Plaintiffs opting into the collective action aspect of this lawsuit often worked in excess of forty (40) hours per week, and in such cases Defendant did not pay additional compensation of, at least, the legally mandated rate. Specifically, Defendants forced Named Plaintiff and all Plaintiffs opting into the collective action aspect of this lawsuit to work beyond their shift end time without pay.

Defendants knew and have been aware at all times that Named Plaintiff and all Plaintiffs opting into the collective action aspect of this lawsuit regularly worked in excess of forty (40) hours per week, and yet failed to pay them for all overtime hours they worked.

17. Further, in violation of federal and state laws, including without limitation, the FLSA and Pennsylvania wage and hour laws, Defendant did not post employees' rights posters and/or provide any required notices to employees, including Named Plaintiff and all Plaintiffs opting into the collective action aspect of this lawsuit, regarding their rights under such laws, despite Defendant having multiple in-house lawyers advising it on compliance with wage payment laws. These actions demonstrate that Defendant's non-compliance was willful, malicious, and in knowing violation of the federal and state laws addressed herein.

18. Defendant willfully failed to pay Named Plaintiff for accrued vacation.

19. Defendant willfully withheld compensation in the form of a regular contribution to Named Plaintiff's 401(k) retirement account.

20. Named Plaintiff and all Plaintiffs opting into the collective action aspect of this lawsuit were subjected to Defendant's common plan of depriving them overtime pay.

21. With respect to Named Plaintiff's FLSA claims, Named Plaintiff seeks to represent all Plaintiffs opting into the collective action aspect of this lawsuit as a collective class (the "FLSA Class") that is comprised of and defined as:

All persons employed by Brooks Automation, Inc. during the applicable statute of limitations period who were required to work more than forty (40) hours per week without being paid at overtime rates.

22. The FLSA aspect of this lawsuit is being brought as a collective action under the FLSA, 29 U.S.C. § 216(b) because Named Plaintiff and the FLSA Class are similar in that they all: (a) had similar duties; (b) performed similar tasks; (c) were not paid overtime compensation; and (d) were not subject to individualized circumstances that impact their right to recover the damages sought herein.

23. Named Plaintiff will fairly and adequately protect the interests of the FLSA Class. Named Plaintiff and the FLSA Class have retained counsel experienced and competent in collective/class actions and complex employment litigation.

24. Named Plaintiff has no conflict of interest with the FLSA Class.

25. The books and records of Defendant are material to Plaintiffs' claims as they disclose the hours worked and wages paid to Named Plaintiff and members of the FLSA Class.

COUNT I

**VIOLATIONS OF THE FLSA
(Plaintiffs v. Defendant)**

26. Plaintiffs incorporate all previous paragraphs of this Complaint herein by reference as if more fully set forth at length.

27. At all times material herein, Plaintiffs have been entitled to the rights, protections, and benefits provided under the FLSA, 29 U.S.C. § 201, *et seq.*

28. Plaintiffs are “employees” and Defendant is or was collectively and individually their “employer” covered under Section 203 of the FLSA.

29. The FLSA regulates, among other things, the payment of overtime to employees who are engaged in interstate commerce, or engaged in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce. 29 U.S.C. § 207(a)(1).

30. Section 13 of the FLSA exempts certain categories of employees from overtime pay obligations. None of the FLSA exemptions apply to Plaintiffs. 29 U.S.C. § 213.

31. As set forth above, Defendant violated the overtime provisions of the FLSA as it failed to pay Plaintiffs the required one and one-half times (1½) times for each hour worked in excess of forty (40) hours in a workweek, in violation of 29 U.S.C. §§ 207(a) and 215(a)(2). Overtime pay is, therefore, due and owing to Plaintiffs.

32. Defendant's failures to pay Plaintiffs overtime at one and one-half times (1½) times Plaintiffs' regular rate of pay for all hours worked over forty (40) hours in a workweek was willful, intentional, and malicious.

33. Defendant violated the FLSA by failing to pay for overtime. In the course of perpetrating these unlawful practices, Defendant also willfully failed to keep accurate records of all hours worked by its employees, including Plaintiffs.

34. Plaintiffs are entitled to damages incurred within the three (3) years preceding the filing of this Complaint, plus periods of equitable tolling, because Defendant acted willfully and knew, or showed reckless disregard for, whether its conduct was prohibited by the FLSA.

35. Defendant has not acted in good faith or with reasonable grounds to believe that its actions and omissions were not in violation of the FLSA, and as a result thereof, Plaintiffs are entitled to recover an award of liquidated damages in an amount equal to the amount of unpaid overtime pay permitted by 29 U.S.C. § 216(b). Alternatively, should this Honorable Court find Defendant did not act willfully in failing to pay overtime pay, Plaintiffs are entitled to an award of pre-judgment interest at the applicable legal rate.

36. As a result of the aforesaid willful violations of the FLSA's overtime pay provisions, overtime compensation has been unlawfully withheld by Defendant from Plaintiffs. Accordingly, Defendant is liable under 29 U.S.C. § 216(b),

together with an additional amount as liquidated damages, pre-judgment and post-judgment interest, reasonable attorneys' fees, and costs of this action.

WHEREFORE, Named Plaintiff, Mark M. Schoemaker, and all Plaintiffs opting into this collective action (the "FLSA Class"), respectfully request that this Honorable Court enter Judgment in their favor and against Defendant, Brooks Automation, Inc., as follows:

- (a) Certify Count I as a collective action pursuant to 29 U.S.C. § 216(b);
- (b) Order Defendant to file with this Court and furnish to Plaintiffs' counsel a list of all names and addresses of all Brooks' employees who were required to work more than forty (40) hours per week without being paid at overtime rates during the applicable statute of limitations period;
- (c) Authorize Plaintiffs' counsel to issue notice at the earliest possible time to all current and former Brooks' employees who were required to work more than forty (40) hours per week without being paid at overtime rates during the applicable statute of limitations period, informing them that this action has been filed, the nature of the action, and of their right to opt-in to this lawsuit if they were required to work more than forty (40) hours per week without being paid at overtime

rates during the applicable statute of limitations period and/or were not paid overtime pay at the proper rate;

- (d) Enter judgment in favor of Named Plaintiff and members of the FLSA Class against Defendant for violations of the FLSA's overtime requirements;
- (e) Award Named Plaintiff and members of the FLSA Class their unpaid overtime wages, in an amount to be shown at trial;
- (f) Award Named Plaintiff and members of the FLSA Class an additional equal amount as liquidated damages;
- (g) Award Named Plaintiff and members of the FLSA Class all compensatory, exemplary, liquidated, and punitive damage, including any vacation pay, retirement pay and/or tax consequences;
- (h) Award Named Plaintiff and members of the FLSA Class pre- and post-judgment interest at the legal rate;
- (i) Award Named Plaintiff and members of the FLSA Class their costs and reasonable attorneys' fees in bringing this action;
- (j) Enter an Order enjoining Defendant from future violations of the overtime wage provisions of the FLSA; and
- (k) Award Named Plaintiff and members of the FLSA Class any other relief that this Court or a jury deems appropriate.

COUNT II

**VIOLATIONS OF THE PMWA
(Named Plaintiff v. Defendant)**

37. Named Plaintiff incorporates all previous paragraphs of this Complaint herein by reference as if more fully set forth at length.

38. Defendant is an “employer” as that term is defined under the PMWA, 43 Pa.C.S. § 333.103(g), and is thereby subject to liability for overtime wages, liquidated damages and reasonable attorneys’ fees and other costs for non-payment of salary and/or wages under the PMWA, 43 Pa.C.S. § 333.101 *et seq.*

39. As set forth above, Defendant, by its conduct, violated the overtime provisions of the PMWA as it failed to pay Named Plaintiff the required one and one-half times (1½) times for each hour worked in excess of forty (40) hours in a workweek, in violation of 43 Pa.C.S. § 333.104(c). Overtime pay is, therefore, due and owing to Named Plaintiff.

40. The PMWA requires that Defendant compensate Named Plaintiff at a rate of at least one and one-half (1½) times his usual hourly wage for each hour of overtime. 43 Pa.C.S. § 333.104(c).

41. The total amount of compensation due to Named Plaintiff by Defendant constitutes wages under 43 Pa.C.S. § 333.103(d), and failure to pay the amount due constitutes a violation of the PMWA.

42. Defendant's failure and refusal to pay overtime wages was willful, intentional, and not in good faith.

WHEREFORE, Named Plaintiff, Mark M. Schoemaker, respectfully requests that this Honorable Court enter Judgment in his favor and against Defendant, Brooks Automation, Inc., as follows:

- (a) Enter judgment in favor of Named Plaintiff for violations of the PMWA's overtime requirements;
- (b) Award Named Plaintiff his unpaid overtime wages for being required to work more than forty (40) hours per week without being paid at overtime rates during the applicable statute of limitations period, in an amount to be shown at trial;
- (c) Award Named Plaintiff liquidated damages as provided under Pennsylvania law;
- (d) Award Named Plaintiff all compensatory, exemplary, liquidated, and punitive damage, including any vacation pay, retirement pay and/or tax consequences;
- (e) Award Named Plaintiff pre- and post-judgment interest at the legal rate;
- (f) Award Named Plaintiff his costs and reasonable attorneys' fees in bringing this action;

- (g) Enter an Order enjoining Defendant from future violations of the overtime provisions of the PMWA; and
- (h) Award Named Plaintiff any other relief that this Court or a jury deems appropriate.

COUNT III

VIOLATIONS OF THE PWPCCL (Named Plaintiff v. Defendant)

43. Named Plaintiff incorporates all previous paragraphs of this Complaint herein by reference as if more fully set forth at length.

44. Defendant is an “employer” as that term is defined under the PWPCCL, and is thereby subject to liability for wages, liquidated damages and reasonable attorneys’ fees for non-payment of salary and/or wages under the PWPCCL, 43 Pa.C.S. § 260.1, *et seq.*

45. Named Plaintiff is entitled to be paid one and one-half times (1½) times his regular rate of pay for all hours worked in excess of forty (40) in a workweek, as provided by, *inter alia*, 29 U.S.C. § 207(a) and 43 Pa.C.S. § 333.104(c). The failure to pay said wages constituting a violation of 29 U.S.C. § 215(a)(2) and 43 Pa.C.S. § 333.104(c).

46. Defendant has failed to pay Named Plaintiff one and one-half times (1½) times his regular rate of pay for all hours worked in excess of forty (40) in a workweek, in violation of PMWA. Defendant has, therefore, failed to regularly pay

Named Plaintiff for all earned wages from the date he was first employed, through and including the present, in violation of the PWPCL. Accordingly, wages in the form of overtime pay are due and owing to Named Plaintiff pursuant to Section 260.3(a) of the PWPCL. Further, Defendant has violated the PWPCL through its failure to pay Named Plaintiff all wages due for work he performed upon its termination of his employment pursuant to Section 260.5(a) of the PWPCL.

47. Defendant also failed to pay Named Plaintiff for accrued vacation time and failed to make regular contributions to Named Plaintiff's 401(k) retirement account.

48. The total amount due Named Plaintiff by Defendant constitutes wages under Section 260.2a of the PWPCL, and failure to pay the amount due constitutes a violation of the PWPCL.

49. In accordance with Section 260.10 of the PWPCL, by reason of Defendant's actions, Named Plaintiff is entitled to liquidated damages in an amount equal to twenty-five percent (25%) of the wages due in addition to all wages due.

50. In accordance with Section 260.9a of the PWPCL, by reason of Defendant's actions, Named Plaintiff is entitled to reasonable attorneys' fees associated with this action.

51. The wages withheld from Named Plaintiff was not the result of any bona fide dispute.

WHEREFORE, Named Plaintiff, Mark M. Schoemaker, respectfully requests that this Honorable Court enter Judgment in his favor and against Defendant, Brooks Automation, Inc., as follows:

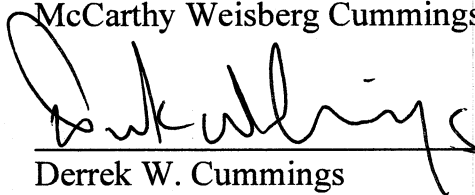
- (a) Enter judgment in favor of Named Plaintiff against Defendant for failing to pay wages in violation of the PWPCCL;
- (b) Award Named Plaintiff liquidated damages in an amount equal to twenty-five percent (25%) of the wages due in addition to all wages due, in an amount to be shown at trial;
- (c) Award Named Plaintiff all compensatory, exemplary, liquidated, and punitive damage, including any vacation pay, retirement pay and/or tax consequences;
- (d) Award Named Plaintiff pre- and post-judgment interest at the legal rate;
- (e) Award Named Plaintiff his costs and reasonable attorneys' fees in bringing this action;
- (f) Enter an Order enjoining Defendant from future violations of the wage provisions of the PWPCCL; and
- (g) Award Named Plaintiff any other relief that this Court or a jury deems appropriate.

JURY DEMAND

Named Plaintiff and all Plaintiffs opting into the collective action aspect of this lawsuit demand a trial by jury on all issues triable to a jury as a matter of right.

Respectfully submitted,

McCarthy Weisberg Cummings, P.C.



Derrek W. Cummings
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dcummings@mwcfirm.com

Larry A. Weisberg
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2041 Herr Street
Harrisburg, PA 17103-1624
(717) 238-5707
(717) 233-8133 (FAX)

Counsel for Plaintiffs

August 25, 2017

Date

CONSENT TO BECOME A PARTY PLAINTIFF

Fair Labor Standards Act, 29 U.S.C. § 216(b)

I hereby consent to become a party plaintiff in the foregoing action.

Date: 10/26/1959



Mark M. Schoemaker

EXHIBIT "A"

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

MARK M. SCHOEMAKER, individually and on behalf of all others similarly situated,

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

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

McCarthy Weisberg Cummings, P.C.
2041 Herr Street, Harrisburg, PA 17103 (717) 238-5707

DEFENDANTS

BROOKS AUTOMATION, INC.

County of Residence of First Listed Defendant Middlesex (Massachusetts)
(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	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical 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 of 1938, 29 U.S.C. §§ 201 et seq. ("FLSA")

Brief description of cause:
Defendant deliberately failed to pay Plaintiff and all others similarly situated earned 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 08/25/2017 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

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

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

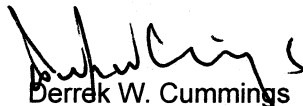
CASE MANAGEMENT TRACK DESIGNATION FORM

MARK M. SCHOEMAKER, individually and	:	CIVIL ACTION
on behalf of all others similarly situated,	:	
v.	:	
BROOKS AUTOMATION, INC.	:	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.) (X)
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

<u>August 25, 2017</u>	 <u>Derrek W. Cummings</u>	Plaintiffs, Mark M. Schoemaker, individually and on behalf of all others similarly situated
Date	Attorney-at-law	Attorney for
<u>(717) 238-5707</u>	<u>(717) 233-8133</u>	<u>dcummings@mwcfirm.com</u>
Telephone	FAX Number	E-Mail Address

UNITED STATES DISTRICT COURT

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: Mark M. Schoemaker, 3123 Woodlea Road, Orefield, Pennsylvania 18069

Address of Defendant: Brooks Automation, Inc., 15 Elizabeth Drive, Chelmsford, Massachusetts 01824

Place of Accident, Incident or Transaction: 3123 Woodlea Road, Orefield, Pennsylvania 18069 (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)) Question is reserved for Defendant, Brooks Automation, Inc. Yes No

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?
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?
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?
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

CIVIL: (Place 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 of 1938, 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

(Check Appropriate Category)

I, Derrek W. Cummings, 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: August 25, 2017

Derrek W. Cummings, Attorney-at-Law

83286 (PA)

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: August 25, 2017

Derrek W. Cummings, Attorney-at-Law

83286 (PA)

Attorney I.D.#

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Brooks Automation, Inc. Facing Suit from Recently Reclassified Field Service Engineers](#)
