



1878 Marlton Pike East
Society Hill Office Park, Suite 10
Cherry Hill, NJ 08003
Tel: (856) 685-7420
Fax: (856) 685-7417
jswidler@swartz-legal.com

January 4, 2012

Clerk's Office
Eastern District Court
601 Market Street
Philadelphia, PA 19106-1797

RE: Kelly Reed v. St. Luke's Hospital & Health Network and Quincy Rogers

Dear Sir/Madam:

Enclosed please find the following for filing:

- One (1) original and one (1) copy of Plaintiff's Complaint, Case Management Track Designation Form, Designation Form, Civil Cover sheet and a disk with all documents in PDF format. Also, enclosed is a check in the amount of \$350.00 for Court Filing Fee.

Kindly file with the Court and return a file-stamped copy in the envelope provided at your earliest possible convenience.

Thank you.

Respectfully submitted,

SWARTZ SWIDLER, LLC

s/Justin Swidler
JUSTIN SWIDLER, Esq.

JS/ss
Encl.

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 THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

KELLY REED

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

(c) Attorney's (Firm Name, Address, and Telephone Number)

SWARTZ SWIDLER LLC (856) 685-7420
1878 Marlton Pike East, Suite 10, Cherry Hill, NJ 08003

DEFENDANTS

ST. LUKES HOSPITAL & HEALTH NETWORK;
JOHN DOES 1-10

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

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE 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)

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 (Excl. 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 PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 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"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<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"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <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))	<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"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <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	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input checked="" 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
- 7 Appeal to District Judge from Magistrate Judgment

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. § 216(b)
Brief description of cause:
FLSA

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____
CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 01/04/2012 SIGNATURE OF ATTORNEY OF RECORD: s/ Justin Swidler

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

Kelly Reed

CIVIL ACTION

v.

St. Lukes Hospital & Health Network

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

<u>1/4/2012</u>	<u>St. Justin Smidler</u>	<u>Plaintiff</u>
Date	Attorney-at-law	Attorney for
<u>856-685-7420</u>	<u>856-685-7417</u>	<u>JSmidler@Smartz-legal</u>
Telephone	FAX Number	E-Mail Address
		COM

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: 517 Blaker Drive, E. Greenville PA 18041
Address of Defendant: 1021 Park Avenue, Quakertown, PA 19041
Place of Accident, Incident or Transaction: Quakertown, PA 19041
(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 [X]

Does this case involve multidistrict litigation possibilities? Yes [] No [X]

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 [X]
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 [X]
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 [X]
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 [X]

- CIVIL: (Place [X] 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)
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. [X] All other Diversity Cases (Please specify)
Employment

ARBITRATION CERTIFICATION

(Check Appropriate Category)
I, Justin Swidler, 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: 1/4/2012 Justin Swidler 205954
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: Attorney-at-Law Attorney I.D.#

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: 517 Blaker Drive, E. Greenville PA 18041
Address of Defendant: 1021 Park Avenue, Quakertown, PA 19041
Place of Accident, Incident or Transaction: Quakertown, PA 19041
(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 [X]

Does this case involve multidistrict litigation possibilities? Yes [] No [X]

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 [X]
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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 [X]
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 [X]

- CIVIL: (Place [X] in ONE CATEGORY ONLY)
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2. [] FELA
3. [] Jones Act-Personal Injury
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10. [] Social Security Review Cases
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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. [X] All other Diversity Cases (Please specify) Employment

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[] 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.

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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: Attorney-at-Law Attorney I.D.#

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

KELLY REED, on behalf of herself and those
similarly situated,
517 Blaker Drive
East Greenville, PA 18041

Plaintiff,

v.

ST. LUKES HOSPITAL & HEALTH
NETWORK
1021 Park Avenue
Quakertown, PA 19401

and

JOHN DOES 1-10

Defendants.

COLLECTIVE ACTION FOR UNPAID
OVERTIME UNDER FLSA

No.

JURY TRIAL DEMANDED

COLLECTIVE ACTION CIVIL COMPLAINT

Kelly Reed (“Named Plaintiff”), on behalf of herself and those similarly situated (hereinafter referred to as “Plaintiffs”), hereby complains as follows against Defendants.

INTRODUCTION

1. Named Plaintiff has initiated the instant action to redress violations by Defendants of the Fair Labor Standards Act (“FLSA”). Named Plaintiff asserts that Defendants failed to pay Named Plaintiff and Plaintiffs proper overtime compensation in violation of the FLSA.

JURISDICTION AND VENUE

2. The foregoing paragraphs are incorporated herein as if set forth in their entirety.

3. This Court may properly maintain personal jurisdiction over Defendants because Defendants’ contacts with this state and this judicial district are sufficient for the exercise of

jurisdiction over Defendants to comply with traditional notions of fair play and substantial justice.

4. This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the claims herein arise under laws of the United States, the FLSA, 29 U.S.C. § 201 *et seq.*

5. Venue is properly laid in this judicial district pursuant to 28 U.S.C. §§ 1391(b)(1) and (b)(2), because Defendants reside in and/or conduct business in this judicial district and because a substantial part of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district.

PARTIES

6. The foregoing paragraphs are incorporated herein as if set forth in full.

7. Plaintiff Kelly Reed is an adult individual with an address as set forth above.

8. Defendant St. Lukes Hospital and Health Network (“Defendant”) is an entity with an address as set forth above.

9. Defendants John Doe 1 through John Doe 5 are presently unknown persons who, directly or indirectly, directed, aided, abetted, and/or assisted with creating and/or executing the policies and practices of Defendants which resulted in Defendants’ failing to pay Named Plaintiff and Plaintiffs proper compensation pursuant to the FLSA.

10. Defendants John Doe 6 through John Doe 10 are presently unknown persons who had control over processing payroll regarding Named Plaintiff and Plaintiffs.

11. At all times relevant herein, Defendants acted by and through their agents, servants, and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendants.

FLSA COLLECTIVE ACTION ALLEGATIONS

12. Named Plaintiff brings this action for violations of the FLSA as a collective action pursuant to Section 16(b) of the FLSA, 29 U.S.C. § 216(b), on behalf of all persons presently and formerly employed by Defendant in non-exempt positions subject to Defendant's unlawful pay practices and policies described herein and who worked for Defendant at any point in the three years preceding the date the instant action was initiated (the members of this putative class are referred to as "Plaintiffs").

13. Named Plaintiff and Plaintiffs worked and work at different facilities of Defendant but are subjected to the same unlawful wage policies and practices described herein.

14. Named Plaintiff and Plaintiffs are similarly situated, have substantially similar non-managerial job duties, have substantially similar pay provisions, and are all subject to Defendant's unlawful policies and practices as described herein.

15. There are numerous similarly situated current and former employees of Defendant who were compensated improperly for overtime work in violation of the FLSA and who would benefit from the issuance of a Court Supervised Notice of the instant lawsuit and the opportunity to join in the present lawsuit.

16. Similarly situated employees are known to Defendant, are readily identifiable by Defendant, and can be located through Defendant's records.

17. Therefore, Named Plaintiff should be permitted to bring this action as a collective action for and on behalf of herself and those employees similarly situated, pursuant to the "opt-in" provisions of the FLSA, 29 U.S.C. § 216(b).

FACTUAL BACKGROUND

18. The foregoing paragraphs are incorporated herein as if set forth in full.

19. Named Plaintiff worked for Defendant in Pennsylvania from in or about August of 2009 to in or about March of 2011.

20. Named Plaintiff and Plaintiffs are current and/or former hourly employees of Defendant, who within the last three years have been or are presently employed by Defendant.

21. Upon information and belief, Defendant has maintained an unlawful wage payment system for at least the last three years, and have enforced such unlawful policies at each of their facilities named in this lawsuit.

OFF-THE-CLOCK VIOLATIONS: THE 12-MINUTE "GRACE PERIOD"

22. The foregoing paragraphs are incorporated herein as if set forth in their entirety.

23. Defendant utilizes a computerized system ("Kronos") which tracks the exact time (accurate to 1 minute or less) an employee clocks in and clocks out of work.

24. Even though Defendant maintains a system which records, to the minute, the time an employee clocks in and clocks out, Defendant fails to compensate its employees according to the actual clock-in and clock-out times.

25. Per Defendant's written discipline policy, an employee is subject to discipline if he or she clocks in at any point after the official start time of his or her shift.

26. Shelly Malley, Defendant's director of human resources, testified that employees may be disciplined for being even 1-minute late.

27. Kevin Parker, a supervisor for Defendant, testified that Defendant requires its employees to clock-in prior to the start-time of their shift, and permits such employees to clock-in up to 12-minutes before the start of their shift. This period of time is referred to by Defendant as the "grace period."

28. For Defendant to consider Named Plaintiff and Plaintiffs “on-time,” they must clock in during this 12-minute “grace period.”

29. Named Plaintiff and Plaintiffs perform work for Defendant upon clocking in; accordingly, beyond clocking in, Named Plaintiff and Plaintiffs perform actual work for Defendant during this 12-minute “grace period.”

30. Defendant does not compensate Named Plaintiff or Plaintiffs for any work performed during the “grace period.” Such worked is performed off-the-clock and is not compensated.

31. Moreover, at the end of the shift, Named Plaintiff and Plaintiffs must clock out of working using the Kronos system.

32. Per Defendant’s policies, Named Plaintiff and Plaintiffs may not clock-out before the official end time of their shift, and they must clock out no more than 12 minutes after their shift ends.

33. The Kronos system records the actual clock-out time with an accuracy of 1-minute or less.

34. Nevertheless, Defendant does not compensate Named Plaintiff or Plaintiffs to the actual clock-out time, instead, Defendant only compensates Named Plaintiff and Plaintiffs to the scheduled end time of their shifts.

35. Accordingly, on nearly every shift, Named Plaintiff and Plaintiffs perform work for Defendant while off the clock during this end-of-shift “grace period.”

36. Defendant’s “grace period” system unfairly benefits Defendant in that, most of the time, it results in Named Plaintiff and Plaintiffs being paid for substantially less time than they actually worked.

37. Defendant has no good faith basis to use such a rigged system as their time clocks record the actual clock in and clock out times to at least a one-minute accuracy.

38. As Named Plaintiff and Plaintiffs routinely work overtime, this unpaid time results has resulted in Named Plaintiff and Plaintiffs being denied proper overtime compensation.

UNLAWFUL LUNCH DEDUCTIONS

39. The foregoing paragraphs are incorporated herein as if set forth in their entirety.

40. Per Defendant's policies, Named Plaintiff and Plaintiffs may take a 30-minute unpaid lunch break each shift.

41. However, Defendant automatically deducts 30 minutes of paid time from Named Plaintiffs' and Plaintiffs' paychecks for each shift Named Plaintiff and Plaintiffs work, whether or not a lunch break is taken.

42. Accordingly, Defendant does not accurately track Named Plaintiff's and Plaintiffs' time for "unpaid breaks."

43. In addition, Named Plaintiff and Plaintiffs are subject to discipline if they take a lunch break which lasts longer than 30 minutes.

44. Named Plaintiff and Plaintiffs are routinely docked for 30-minute lunch breaks even when they do not take a bona-fide meal break of at least 30 minutes.

45. As Named Plaintiff and Plaintiffs routinely work overtime, this unpaid time results has resulted in Named Plaintiff and Plaintiffs being denied proper overtime compensation.

COUNT I
Fair Labor Standards Act ("FLSA")
(Failure to pay Overtime Compensation)
(Named Plaintiff and Plaintiffs v. Defendants)

46. The foregoing paragraphs are incorporated herein as if set forth in full.

47. At all times relevant herein, Defendants have and continue to be "employers" within the meaning of the FLSA.

48. At all times relevant herein, Defendants were and are responsible for paying wages to Named Plaintiff and Plaintiffs.

49. At all times relevant herein, Named Plaintiff and Plaintiffs were and are employed with Defendants as "employees" within the meaning of the FLSA.

50. Under the FLSA, an employer must pay an employee at least one and one half times his or her regular rate of pay for each hour worked in excess of forty hours per workweek.

51. Defendants' violations of the FLSA include, but are not limited to: (1) unlawfully docking Named Plaintiff's and Plaintiffs' overtime pay by using a rigged system which substantially favors Defendants; and (2) unlawfully docking Named Plaintiff's and Plaintiffs' overtime pay by reducing their pay by 30 minutes each shift, regardless of whether the employee took a bona-fide 30 minute meal break.

52. Defendants' conduct in failing to pay Named Plaintiff and Plaintiffs properly was and is willful and was and is not based upon any reasonable interpretation of the law.

53. As a result of Defendants' unlawful conduct, Named Plaintiff and Plaintiffs have suffered damages as set forth herein.

WHEREFORE, Named Plaintiff and Plaintiffs pray that this Court enter an Order providing that:

(1) Defendants are to be prohibited from continuing to maintain their illegal policy, practice, or customs in violation of federal wage and hour laws;

(2) Defendants are to compensate, reimburse, and make Named Plaintiff and Plaintiffs whole for any and all pay and benefits they would have received had it not been for Defendants' illegal actions, including but not limited to past lost earnings.

(3) Named Plaintiff and Plaintiffs are to be awarded, pursuant to the FLSA, liquidated damages in an amount equal to the actual damages in this case;

(4) Named Plaintiff and Plaintiffs are to be awarded the costs and expenses of this action and reasonable legal fees as provided by applicable law.

(5) Named Plaintiff and Plaintiffs are to be awarded all other relief this Court deems just and proper.

Respectfully Submitted,

/s Justin L. Swidler

Justin L. Swidler, Esq.

Richard S. Swartz, Esq.

SWARTZ SWIDLER, LLC

1878 Marlton Pike East, Ste. 10

Cherry Hill, NJ 08003

Phone: (856) 685-7420

Fax: (856) 685-7417

Date: January 4, 2012