

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

HEATHER BATTISTA

Plaintiff,

v.

BOMBARDIER TRANSPORTATION

Defendant.

CIVIL DIVISION

Docket No.

**COMPLAINT**

**COMPLAINT IN CIVIL ACTION**

AND NOW, comes the Plaintiff, Heather Battista, by and through her counsel, Elizabeth Pollock-Avery, Esq., and files the following Complaint and in support thereof sets forth as follows:

1. Heather Battista (hereinafter “Battista”) is a Pennsylvania resident residing at 226 Marion Drive, McMurray, PA 15317.
2. Bombardier Transportation (hereinafter “Defendant”) is a company lawfully doing business in Pennsylvania with a location at 1501 Lebanon Church Road, Pittsburgh, Pennsylvania, 15236.
3. Battista’s employment with Defendant began on or about September 21, 2009 when she was hired as Senior Administrative Coordinator.
4. On or about January 1, 2013 Battista was promoted to Executive Staff Specialist by Defendant.
5. The position of Senior Administrative Coordinator was classified as Defendant as a non-exempt position under the Fair Labor Standards Act.

6. The position of Executive Staff Specialist was classified as Defendant as an exempt position.
7. Battista went on approved FMLA leave effective October 10, 2014.
8. Prior to going on FMLA leave, Battista was required to work more than 40 hours per week by the nature of her position and the expectations of her supervisor, Jill Hampton.
  - a. Ms. Hampton demanded that Battista complete projects on unrealistic deadlines, including assigning new projects near the end of the work day which had to be completed by the next morning.
  - b. Defendant would schedule meetings prior to the start of the work day requiring Battista to go into work early. Ms. Hampton would not allow Battista to leave early on those days to compensate for the extra time.
  - c. Once becoming the Executive Staff Specialist, Battista was given additional non-managerial duties as well as expected to continue all of her previous duties as Senior Administrative Coordinator.
9. Ms. Hampton was aware that Battista was working more than 40 hours a week in order to complete all of her assigned tasks.
10. Battista met with an HR representative during the week of October 6, 2014 and discussed her current work situation, including the necessity of working more than 40 hours a week to meet Ms. Hampton's expectations.
11. Battista was not aware of, and was never made aware of, a procedure to report overtime hours.

12. Despite being classified as exempt in her position as Executive Staff Specialist, Battista was not performing any tasks which would have allowed Defendant to classify her as such.

a. Plaintiff's position does not fall under the 'Exempt Administrative Job' category:

i. Plaintiff does not exercise independent judgment or discretion about matters of significance.

b. Plaintiff's position does not fall under the 'Exempt Executive Job' category:

i. Plaintiff does not regularly supervise any other employees and only intermittingly supervises one other position;

ii. Plaintiff does not perform managerial tasks as the primary duty of her position; and

iii. Plaintiff gives input into the hiring of the junior administrative, however her input was limited. Plaintiff was only part of the hiring process and does not make any employment decisions.

13. Plaintiff regularly worked in excess of 40 hours per week from January 1, 2013 to October 10, 2014.

14. From September 29, 2014 to October 3, 2014 Plaintiff worked 50 hours. These hours include:

a. Two (2) hours of overtime for four (4) days that week; and

b. Plaintiff working through her regularly scheduled lunch break.

**COUNT I – VIOLATION OF THE PENNSYLVANIA WAGE PAYMENT AND  
COLLECTION LAW (“WPCL”), 43 P.S. § 260.1 et. seq**

15. The preceding paragraphs are incorporated herein as if set forth at length.
16. Defendant constitutes an “employer” within the meaning of the WPCL.
17. Battista is an “employee” within the meaning of the WPCL to whom unpaid wages are due and owing.
18. The unpaid wages are a result of Defendant not properly compensating Battista for hours worked in excess of 40 hours per week.
19. Defendant has been on notice of the unpaid wages claim.
20. Defendant is in violation of the WPCL for failure to pay overtime between January 1, 2013 and October 10, 2014.

**COUNT II – VIOLATION OF THE FAIR LABOR STANDARDS ACT (“FLSA”), 29  
U.S.C. §201, et seq.**

21. The preceding paragraphs are incorporated herein as if set forth at length.
22. Defendant constitutes an “employer” within the meaning of the FLSA.
23. Battista is an “employee” within the meaning of the FLSA to whom unpaid wages are due and owing.
24. The unpaid wages are a result of Defendant not properly compensating Battista for hours worked in excess of 40 hours per week.
25. Defendant has been on notice of the unpaid wages claim.

26. Defendant is in violation of the FLSA for failure to pay overtime between January 1, 2013 and October 10, 2014.

**REQUEST FOR RELIEF**

WHEREFORE, Plaintiff Battista respectfully requests that this Court enter judgment against the Defendant for the following:

- 27. Unpaid overtime in excess of \$35,000;
- 28. Under the terms of the WPCL and FLSA, Plaintiff is due reasonable attorneys' fees incurred in the prosecution of Plaintiff's claims;
- 29. Liquidated and compensatory damages;
- 30. Court costs; and
- 31. Other such relief as the Court may deem just and proper.

Respectfully submitted,



**Elizabeth Pollock-Avery, Esq.**

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**JURY TRIAL DEMANDED**