

**IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA**

MARK S. STEHLE

Plaintiff,

vs.

STAR TRANSPORTATION GROUP and
NATIONAL INDEPENDENT
CONTRACTOR ASSOCIATION,

Defendants.

Civil Division

GD-14-013288

COMPLAINT

Filed on behalf of PLAINTIFF,
MARK S. STEHLE

COUNSEL OF RECORD FOR THESE
PARTIES:

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PA ID # 314841

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JURY TRIAL DEMANDED

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NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following papers, you must take action within TWENTY (20) days after the Complaint and Notice are served by entering a written appearance personally or by an attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any claims or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. If you do not have a lawyer, go to or telephone the office set forth below. This office can provide you with information about hiring a lawyer. IF YOU CANNOT AFFORD TO HIRE A LAWYER, this office may be able to provide you with information about agencies that may offer legal service to eligible persons at a reduced fee or no fee.

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The Allegheny County Bar Association
11th Floor Koppers Bldg.
436 Seventh Avenue, Pittsburgh, PA 15219
TELEPHONE: 412-261-5555

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COMPLAINT

Mark S. Stehle (“Plaintiff”), by and through his counsel Elizabeth L. Pollock-Avery, Esq. files this Complaint against Star Transportation Group (“Defendant”) and National Independent Contractor Association (“NICA”) alleging the following:

I. Overview of the Case

1. This is an action for equitable relief as well as monetary damages, to redress Defendants’ unlawful employment practices against Plaintiff. Plaintiff is entitled to unpaid overtime wages which the Defendant willfully refused to pay for all hours worked over 40 per week. This action is brought on behalf of Plaintiff pursuant to the Fair Labor Standards Act (“FLSA”), 9 U.S.C. § 216(b) and the Pennsylvania Wage Payment and Collection Law (“WPCL”), § 260.2 et seq.

II. Facts

2. Plaintiff Mark S. Stehle (hereinafter “Mr. Stehle”) is an adult individual residing in Allegheny County Pennsylvania and is a former employee of Defendants. Mr. Stehle currently resides at 3254 Wainbell Avenue Pittsburgh PA 15216.

3. Defendant Star Transportation Group (hereinafter “Star Transportation”) is a company doing business in Allegheny County with a headquarters located at 910 Sheraton Drive Mars, PA 16046.

4. Defendant National Independent Contractor Association (hereinafter “NICA”) is a company doing business in the United States, including in Allegheny County, Pennsylvania.

5. Mr. Stehle began working for Defendants as a full-time shuttle driver on May 15, 2011.

6. Mr. Stehle did not have prior experience as a commercial driver.

7. Around the time Mr. Stehle was hired by Defendants, he entered into an agreement with Star Transportation titled “Agreement for Independent Contractor Services” (hereinafter “The Agreement.”)

8. The Agreement was signed by Mr. Stehle as well as Robert C. DeLucia, who was at the time President of Star Transportation and was witnessed by Derek DeLucia, who was at the time Vice President of Star Transportation. No representative for NICA signed or witnessed The Agreement.

9. The Agreement states that the driver will obtain and provide vehicle equipment and supplies.

10. The first vehicle Mr. Stehle drove was a 13 passenger van that was not owned by him. The large shuttle he later drove for Star Transportation was also not owned by Mr. Stehle.

11. At the start of his employment with Defendants, Mr. Stehle signed an application and agreement (hereinafter “NICA Agreement”) between himself and NICA.

12. NICA charged Mr. Stehle a periodic fee for services they offered through the NICA Agreement. Mr. Stehle was not reimbursed for that fee by Star Transportation.

13. As part of Mr. Stehle’s membership with NICA, his services were advertised through NICA’s website, although these advertisements were stopped at some point unknown to Plaintiff. The NICA Agreement contained a section in which these advertisement services could be opted out of, but Mr. Stehle did not check the box that would have opted him out of those services.

14. Around the time he was hired, Mr. Stehle was told what to wear while working.

15. Around the time he was hired, Mr. Stehle was given a schedule that told him at which time he had to be at two different sites.

16. Derek DeLucia told Mr. Stehle to be at the first site at 5:00 AM.

17. Mr. Stehle had to work until approximately 6:30 PM.

18. Mr. Stehle’s breaks were predetermined by Star Transportation.

19. At no point during his employment with Defendants did Mr. Stehle perform services for other transportation agencies, nor personally advertise for these services.

20. Mr. Stehle drove the same route every day with few exceptions.

21. The Agreement states that independent contractor drivers are able to perform the services they perform for other agencies or companies.

22. Mr. Stehle worked approximately seventy (70) hours per week.

23. The Agreement states that independent contractor drivers are able to employ assistants if they cannot perform the work themselves.

24. However, whenever Mr. Stehle was sick, Star Transportation arranged for other drivers to do Mr. Stehle's run. Mr. Stehle was not required no ever told he needed to find his own replacement when calling in sick.

25. Star Transportation usually needed two (2) drivers to substitute for Mr. Stehle when he was not working, and PNC employees always complained when Mr. Stehle was not working.

26. Mr. Stehle's compensation changed only once while Mr. Stehle was employed. Both before and after, he was paid a steady rate.

27. For the duration of Mr. Stehle's employment with Defendants, Star Transportation would send information concerning Mr. Stehle's compensation to NICA, who would then issue payments to Mr. Stehle.

28. For the duration of his employment with Defendants, Mr. Stehle received his checks directly from NICA through the mail.

29. After Mr. Stehle had been employed approximately one and one-half months, PNC wanted a bigger shuttle because more employees were being sent over to Allegheny Center.

30. Mr. Stehle was then required to obtain a CDL permit.

31. Star Transportation obtained a larger 23-passenger shuttle which Mr. Stehle began driving after he had obtained a CDL permit.

32. Mr. Stehle drove the 23-passenger shuttle with no paid training. Derek DeLucia told Mr. Stehle that only one driver gets paid, and there was a CDL-P driver with Mr. Stehle as he drove all day on a new schedule.

33. Mr. DeLucia later stated in an unemployment hearing that the trainer was not paid but had offered to train Mr. Stehle to help the company.

34. On April 2, 2013 PNC and Star Transportation renegotiated their contract. Mr. Stehle was not a party to these negotiations.

35. After the renegotiation, when Mr. Stehle received his check, he noticed that there was a shortage of his payment.

36. Mr. Stehle contacted Rachel, an employee at Star Transportation who did payroll, about the shortage. Rachel told Mr. Stehle that she did not know what was going on with his pay.

37. Approximately six weeks later, Derek DeLucia came on the shuttle and asked Mr. Stehle why he was disgruntled. Derek DeLucia said that PNC was very mad about the situation and that he had been trying to call Mr. Stehle for two weeks. Mr. Stehle has a phone which belongs to Star Transportation with him at all times while working. Derek DeLucia agreed to change Mr. Stehle's pay back to its original amount. When Mr. Stehle asked him about the money he that had not received due to being shorted for the previous six weeks, Derek DeLucia told him that he would check to see if he could afford to pay him back. This conversation occurred on a Friday, and on the following Monday Derek DeLucia went on vacation to Cancun.

38. Mr. Stehle never received any money from the six week period during which he was shorted.

39. After this incident, Mr. Stehle contacted the Pennsylvania Department of Labor and Industry.

40. After the Pennsylvania Department of Labor and Industry contacted Star Transportation to let them know that they were coming, Star Transportation had Mr. Stehle do a run to Cleveland, Ohio. This was the first and only time that Mr. Stehle did a run out of state.

41. On March 14, 2014 Mr. Stehle's employment with Defendants was terminated. He was not given a reason for his termination.

COUNT I
Against Star Transportation
Violation of the FLSA

42. The above paragraphs are incorporated here by reference as though fully set forth at length herein.

43. The FLSA requires employers to pay all non-exempt employees one and one-half times the regular rate of pay for all hours worked in excess of forty per workweek.

44. The totality of the working relationship between Mr. Stehle and Star Transportation as set forth above demonstrates that Mr. Stehle was improperly classified as an independent contractor.

45. For the foregoing reasons as set forth above, at all times relevant hereto, Mr. Stehle was an employee within the meaning of the FLSA and is entitled to FLSA overtime compensation for all hours worked in excess of forty per week.

46. At all times relevant, Star Transportation willfully had a policy and practice of refusing to pay overtime compensation at the statutory rate of time and on-half to Mr. Stehle for all hours worked in excess of forty hours per week, in violation of the FLSA.

47. At all times relevant hereto, Star Transportation willfully violated their obligations to pay mandatory fringe benefits to Mr. Stehle, including but not limited to, social security contributions, Medicare contributions, worker compensation contributions, unemployment contributions and other mandatory fringe benefits.

48. The foregoing conduct constitutes a willful violation of the FLSA.

49. As a direct and proximate result of Star Transportation's unlawful conduct, Mr. Stehle has suffered a loss of income and other damages.

COUNT II
Against NICA
Violation of the FLSA

50. The above paragraphs are incorporated here by reference as though fully set forth at length herein.

51. The FLSA requires employers to pay all non-exempt employees one and one-half (1.5) times the regular rate of pay for all hours worked in excess of forty (40) per workweek.

52. The totality of the working relationship between Mr. Stehle and Star Transportation as set forth above demonstrates that Mr. Stehle was improperly classified as an independent contractor.

53. For the foregoing reasons as set forth above, at all times relevant hereto, Mr. Stehle was an employee within the meaning of the FLSA and is entitled to FLSA overtime compensation for all hours worked in excess of forty (40) per week.

54. At all times relevant, NICA willfully had a policy and practice of refusing to pay overtime compensation at the statutory rate of time and on-half to Mr. Stehle for all hours worked in excess of forty (40) hours per week, in violation of the FLSA.

55. At all times relevant hereto, NICA willfully violated their obligations to pay mandatory fringe benefits to Mr. Stehle, including but not limited to, social security contributions, Medicare contributions, worker compensation contributions, unemployment contributions and other mandatory fringe benefits.

56. The foregoing conduct constitutes a willful violation of the FLSA.

57. As a direct and proximate result of NICA's unlawful conduct, Mr. Stehle has suffered a loss of income and other damages.

COUNT III
Against Star Transportation
Violation of the WPCL

58. The above paragraphs are incorporated here by reference as though fully set forth at length herein.

59. At all times relevant hereto, Star Transportation was Mr. Stehle's "employer."

60. For the foregoing reasons as set forth above, at all times relevant hereto, Mr. Stehle was an "employee" of Star Transportation.

61. As an employee, Mr. Stehle was owed mandatory overtime wages.

62. Star Transportation did not pay Mr. Stehle the mandatory overtime wages owed to him.

63. The mandatory overtime wages owed to Mr. Stehle which were not paid by Star Transportation constitute wages as defined under the WPCL.

64. As an employee, Mr. Stehle was owed mandatory fringe benefits including but not limited to social security, workers compensation, Medicare and unemployment contributions.

65. Star Transportation did not pay Mr. Stehle mandatory fringe benefits as required by law.

66. The mandatory fringe benefits which Star Transportation did not pay to Mr. Stehle constitute wages as defined under the WPCL.

67. The WPCL requires employers, such as Star Transportation, to pay employees, such as Mr. Stehle, all wages within thirty (30) days of such wages being due unless there is a good faith defense not to do so.

68. Star Transportation has no good faith basis for withholding the foregoing wages from Mr. Stehle.

69. As a direct and proximate result of Star Transportation's unlawful conduct, Mr. Stehle has suffered a loss of income and other damages.

COUNT IV
Against NICA
Violation of the WPCL

70. The above paragraphs are incorporated here by reference as though fully set forth at length herein.

71. At all times relevant hereto, NICA was Mr. Stehle's "employer."

72. For the foregoing reasons as set forth above, at all times relevant hereto, Mr. Stehle was an "employee" of NICA.

73. As an employee, Mr. Stehle was owed mandatory overtime wages.

74. NICA did not pay Mr. Stehle the mandatory overtime wages owed to him.

75. The mandatory overtime wages owed to Mr. Stehle which were not paid by NICA constitute wages as defined under the WPCL.

76. As an employee, Mr. Stehle was owed mandatory fringe benefits including but not limited to social security, workers compensation, Medicare and unemployment contributions.

77. NICA did not pay Mr. Stehle mandatory fringe benefits as required by law.

78. The mandatory fringe benefits which NICA did not pay to Mr. Stehle constitute wages as defined under the WPCL.

79. The WPCL requires employers, such as NICA, to pay employees, such as Mr. Stehle, all wages within thirty (30) days of such wages being due unless there is a good faith defense not to do so.

80. NICA has no good faith basis for withholding the foregoing wages from Mr. Stehle.

81. As a direct and proximate result of NICA's unlawful conduct, Mr. Stehle has suffered a loss of income and other damages.

Request for Relief

WHEREFORE, Plaintiff respectfully requests for this Court to grant the following relief in excess of \$70,000 and arbitration limits:

a. Award Plaintiff with past and future overtime wages and other benefits of employment as required by the FLSA and WPCL, to which he would have been entitled had he not been subjected to violations of the FLSA and WPCL;

b. Award Plaintiff front pay, if appropriate;

c. Award Plaintiff attorneys' fees and costs for bringing this action;

d. Award Plaintiff liquidated damages as permitted under the FLSA and the WPCL;

e. Award Plaintiff punitive damages, pre and post judgment interest, costs of suit and attorney and expert witness fees as allowed by law;

f. Declare Defendants' conduct to be in violation of the Plaintiff's rights;

g. Award Plaintiff compensatory damages for lost wages, benefits, interest, and other remuneration as well as punitive damages.

h. Such equitable relief as may be appropriate under the circumstances; and

i. Award such further relief as this Court deems necessary and proper.

JURY TRIAL DEMANDED.

Dated: December 7, 2015

Respectfully submitted,

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Counsel for Plaintiff

Verification

I verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: December 7, 2015


