

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

TYLER FENSTERMAKER

vs.

BIMBO BAKERIES USA INC

NO. 2025-27001

CIVIL COVER SHEET

State Rule 205.5 requires this form be attached to any document commencing an action in the Montgomery County Court of Common Pleas. The information provided herein is used solely as an aid in tracking cases in the court system. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Name of Plaintiff/Appellant's Attorney: PETER WINEBRAKE, ESQ., ID: 80496

Self-Represented (Pro Se) Litigant

Class Action Suit Yes No

MDJ Appeal Yes No

Money Damages Requested

Commencement of Action:

Amount in Controversy:

Complaint

More than \$50,000

Case Type and Code

Miscellaneous: _____

Other _____

Other: FAILURE TO PAY STATUTORY WAGES

Case# 2025-27001-0 Docketed at Montgomery County Prothonotary on 11/03/2025 2:56 PM, Fee = \$303.50. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY,
PENNSYLVANIA

TYLER FENSTERMACHER, Plaintiff,

VS.

NO.

BIMBO BAKERIES USA, INC., Defendant

NOTICE TO DEFEND-CIVIL

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by 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 other claim 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 SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERENCE SERVICE
MONTGOMERY BAR ASSOCIATION
100 West Airy Street (REAR)
NORRISTOWN, PA 19401
(610) 279-9660, EXTENSION 201

FACTS

5. Defendant purports to be the “largest commercial baking company in the U.S.” <https://www.bimbobakeriesusa.com/about-us>. One of Defendant’s commercial bakeries is located at or around 150 Boulder Drive, Breinigsville, PA 18031 and will be referred to herein as “the Bakery.”

6. Defendant employs individuals who work at the Bakery and are paid an hourly wage. Such individuals are referred to as “class members” if they worked at the Bakery during any time since November 3, 2022. *See* ¶ 12 *infra*. Moreover, the time period after November 3, 2022 is referred to as the “class period.”

7. Defendant employed Plaintiff at the Bakery and paid him an hourly wage until approximately July 2025.

8. Plaintiff, like other class members, often worked over 40 hours per week. As one of many examples, Plaintiff was credited with working 42.92 hours during the 7-day week ending November 2, 2024.

9. Plaintiff and other class members are required to complete various mandatory activities inside the Bakery *before they start getting paid*. Such activities include, for example: walking from the Bakery entrance to a uniform pick-up area; picking up uniforms; walking from the uniform pick-up area to assigned lockers; changing into uniforms and other mandatory gear; obtaining “padlock” devices; walking to timeclocks; and waiting at timeclocks. We refer to such activities as “pre-shift” activities.

10. Likewise, Plaintiff and other class members are required to complete certain mandatory activities inside the Bakery *after they stop getting paid*. Such activities include, for example: walking to locker rooms; doffing uniforms and other mandatory gear; putting away

padlocks; and walking to the Bakery exit. We refer to such activities as “post-shift” activities.

11. Defendant has not paid Plaintiff and other class members any wages for the time associated with the above pre-shift and post-shift activities. As such, Plaintiff and other class members have not received any overtime wages for such time during weeks in which they work over 40 hours.

CLASS ALLEGATIONS

12. Plaintiff brings this lawsuit as a class action on behalf of all individuals employed by Defendant at the Bakery and paid an hourly wage during any time since November 3, 2022.¹

13. This action may be properly maintained as a class action pursuant to Pennsylvania Rules of Civil Procedure 1702, 1708, and 1709. Class action treatment of Plaintiff’s PMWA claim is appropriate because, as alleged below, all of Pennsylvania’s class action requisites are satisfied.

14. The class includes individuals who are readily ascertainable based on standard business records and are so numerous that joinder of all class members is impracticable.

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

16. Plaintiff and his lawyers will fairly and adequately represent the class members and their interests because, *inter alia*, (a) Plaintiff is represented by experienced counsel who are

¹ Various Pennsylvania courts have certified class action lawsuits alleging that defendants violated the PMWA by failing to pay workers for time associated with walking and other activities arising at the beginning and end of the workday. *See, e.g., Villa v. Cargill Meat Solutions Corp.*, 2024 U.S. Dist. LEXIS 180090 (M.D. Pa. Oct. 2, 2024); *Davis v. Target Corp.*, 2023 U.S. Dist. LEXIS 214818 (E.D. Pa. Dec. 1, 2023); *Daugherty v. F&L United, LLC*, 2023 Pa. Dist. & Cnty. Dec. LEXIS 15 (Pa. Ct. Com. Pl., Beaver Cty. March 1, 2023).

prepared to vigorously and competently litigate this action on behalf of the class; (b) Plaintiff and his counsel are free of any conflicts of interest that prevent him from pursuing this action on behalf of the class; and (c) Plaintiff and his counsel have adequate financial resources to assure that the interests of the class will not be harmed.

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

18. A class action provides a fair and efficient method for adjudication of the controversy because, *inter alia*, the common questions of law and fact predominate over any questions affecting Plaintiff or any individual class member; the monetary damages sought are readily calculable and attributable to class members; and class litigation protects against the risk of inconsistent or varying adjudications that might result if individual class members pursued individual actions in multiple courthouses.

19. Because Defendant is headquartered in Montgomery County, this Court is an appropriate forum for litigating of the claims of the entire class.

20. The complexities of the issues and the expense of litigating separate claims of individual class members weigh in favor of class certification. For example, in the instant action, Plaintiff will seek and present evidence concerning Defendant's common compensation policies and practices. The gathering and presentation of such evidence in multiple proceedings would be inefficient, redundant, and unjustifiably expensive. The class action device, when compared to multiple proceedings, presents fewer management difficulties and provides the benefits of unitary adjudication, economies of scale, and comprehensive supervision by a single court.

Concentrating this litigation in one forum promotes judicial economy and efficiency and promotes parity among the claims of individual class members as well as judicial consistency. Thus, the conduct of this action as a class action conserves the resources of the parties and the court system, protects the rights of each class member, and meets all due process requirements as to fairness to Defendant.

COUNT I - PMWA

21. All previous paragraphs are incorporated as though fully set forth herein.
22. Defendant is an employer covered by the PMWA's mandates.
23. Plaintiff and the class members are employees entitled to the PMWA's protections.

24. The PMWA entitles employees to compensation for "all hours worked" in a workweek. *See* 43 P.S. § 333.104(a). Such compensable time includes, *inter alia*, all "time during which an employee is required by the employer to be on the premises of the employer," *id.*, and must be paid "regardless of whether the employee is actually performing job-related duties while on the premises," *Heimbach v. Amazon.com, Inc.*, 255 A.3d 191, 204 (Pa. 2021). As such, time associated with the mandatory pre-shift and post-shift activities referenced in paragraphs 9-12 is compensable under the PMWA. *See, e.g., Davis v. Target Corp.*, 767 F. Supp. 3d 185 (E.D. Pa. 2025) (granting summary judgment in favor of warehouse workers seeking PMWA wages for time associated with walking to and from job assignments at beginning and end of workday).

25. The PMWA also requires that employees receive overtime compensation "not less than one and one-half times" the employee's regular rate of pay for all hours worked over 40 per week. *See* 43 P.S. § 333.104(c).

26. Defendant violated the PMWA by failing to pay Plaintiff and other class members overtime wages for time associated with the pre-shift and post-shift activities described at paragraphs 9-10.²

JURY DEMAND

Plaintiff demands a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and the class, seeks the following relief:

(i) unpaid overtime wages; (ii) prejudgment interest; and (iii) any costs and reasonable attorney's fees as may be allowed by the court.

Date: November 3, 2025

Respectfully submitted,



Peter Winebrake (80496)
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715 Twining Road, Suite 211
Dresher, PA 19025
(215) 884-2491
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Plaintiff's Counsel

² If discovery reveals that any additional mandatory activities occurring on Defendant's premises were uncompensated at the beginning or end of the workday, Plaintiff may seek to amend the pleadings as appropriate.

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VERIFICATION

I, Tyler Fenstermaker, hereby state:

1. I am a plaintiff in this action;
2. I verify that the statements made in the accompanying complaint are true and correct to the best of my knowledge information and belief; and
3. I understand that the statements in the complaint are subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

11/03/2025

Dated: _____

Tyler Fenstermaker

Signature – Tyler Fenstermaker