

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

	:	
KEVIN MARTIN, on behalf of himself and	:	
similarly situated employees,	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	NO. _____
v.	:	
	:	
CITIZENS FINANCIAL GROUP, INC., RBS	:	JURY TRIAL DEMANDED
CITIZENS, N.A. (d/b/a Citizens Bank), and	:	
CITIZENS BANK OF PENNSYLVANIA	:	
(d/b/a Citizens Bank),	:	
	:	
Defendants.	:	
	:	

**COLLECTIVE ACTION COMPLAINT**

Plaintiff Kevin Martin (“Plaintiff”), on behalf of himself and similarly situated employees, brings this collective action lawsuit, pursuant to 29 U.S.C. § 216(b), against Defendants Citizens Financial Group, Inc., RBS Citizens, N.A. (d/b/a Citizens Bank), and Citizens Bank of Pennsylvania (d/b/a Citizens Bank) (“Defendants”) to recover for violations of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, *et seq.* for unpaid overtime compensation and related penalties and damages on behalf of all nonexempt employees working at Defendants’ retail branch locations. The following allegations are based on personal knowledge as to Plaintiff’s own conduct and are made on information and belief as to the acts of others.

**JURISDICTION AND VENUE**

1. Jurisdiction over Plaintiff’s FLSA claim is proper under 29 U.S.C. § 216(b) and 28 U.S.C. § 1331 and § 1332.
2. Venue in this Court is proper under 28 U.S.C. § 1391.

**THE RELEVANT TIME PERIOD**

3. The FLSA permits Plaintiff to recover unpaid wages and liquidated damages for up to three years prior to the filing of this lawsuit. Accordingly, the allegations set forth herein concern Plaintiff's employment since January 21, 2007.

**PARTIES**

4. Plaintiff is an individual residing in West Chester, Pennsylvania (Chester County). Plaintiff has been continuously employed by Defendants since in or around August 6, 2007, and currently holds the position of "Banker" at Defendants' King of Prussia Plaza Branch located in King of Prussia, Pennsylvania (Montgomery County).

5. Defendant Citizens Financial Group, Inc. ("CFG") is a financial holding company and a Delaware Corporation doing business in the state of Pennsylvania. CFG's principal place of business is located at One Citizens Plaza, Providence, Rhode Island.

6. Defendant RBS Citizens, N.A. is a corporate entity headquartered at One Citizens Plaza, Providence, Rhode Island.

7. Defendant Citizens Bank of Pennsylvania is a corporate entity headquartered at 1701 John F. Kennedy Boulevard, Philadelphia, Pennsylvania (Philadelphia County).

8. Defendants RBS Citizens, N.A. and Defendant Citizens Bank of Pennsylvania are wholly-owned bank subsidiaries of CFG that jointly operate hundreds of retail bank branches under the "Citizens Bank" brand throughout Pennsylvania, New Jersey, Delaware, Connecticut, Massachusetts, New Hampshire, New York, Rhode Island and Vermont.

9. Defendants Citizens Financial Group, Inc., RBS Citizens, N.A., and Citizens Bank of Pennsylvania are collectively referred to herein as "Defendants."

10. At all relevant times, Defendants have been, and continue to be, “employers” engaged in the interstate “commerce” and/or in the production of “goods” for “commerce” within the meaning of the FLSA, 29 U.S.C. §203.

11. At all relevant times, Defendants, individually and collectively, have employed, and/or continue to employ thousands of employees engaged in interstate commerce.

12. Defendants are establishments engaged in related activities performed through a unified operation or common control for a common business purpose.

13. At all relevant times, Defendants have had gross operating revenues in excess of \$500,000.00 (exclusive of excise taxes at the retail level which are separately stated).

14. At all relevant times, Defendants have been employers covered by the record-keeping, minimum wage, wage payment, and overtime mandates of the FLSA.

**FACTS PERTAINING TO PLAINTIFF**

15. Throughout his employment with Defendants, Plaintiff has not been exempt from the mandates of the FLSA.

16. Since approximately August 2007, Plaintiff has been employed by Defendants at their King of Prussia Plaza Branch and has held the positions of “Teller,” “Advanced Teller,” and “Banker.”

17. From approximately August 2007 until May 2009, Plaintiff was regularly scheduled to work 40 hours each workweek for Defendants.

18. Plaintiff has been paid an hourly wage and has been engaged in commerce or in an occupation directly related to producing, working on, manufacturing, handling, or transporting goods in commerce.

19. Defendants failed to pay Plaintiff for all of the time Plaintiff spent performing his day-to-day work activities.

20. Defendants denied Plaintiff pay for his work activities through various methods, including: (a) not allowing Plaintiff to record all time worked in excess of 40 hours per workweek, (b) erasing or modify Plaintiff's recorded time in order to eliminate or reduce overtime hours, (c) providing "comp time" to Plaintiff in subsequent workweeks in lieu of paying overtime for hours worked in excess of 40 hours per workweek, and/or (d) requiring Plaintiff to perform work during unpaid breaks.

21. Since Plaintiff was regularly scheduled to work 40 hours each workweek between August 2007 and May 2009, his uncompensated work time would be considered overtime and thus compensable at an overtime premium of at least one and one-half times his regular hourly rate of pay.

22. In addition to Plaintiff, Defendants employ numerous other nonexempt employees at their Citizens Bank branch locations throughout Pennsylvania, New Jersey, Delaware, Connecticut, Massachusetts, New Hampshire, New York, Rhode Island and Vermont. This includes, but is not limited to, the following positions: Bank Teller, Customer Service Representatives, Advanced Teller, Senior Teller, Head Teller or Lead Teller, Personal Banker, and Banker. Like Plaintiff, these individuals are paid on an hourly basis, have been regularly scheduled to work approximately 40 hours each workweek, and have not been compensated for all of their work activities.

23. Defendants implemented the policy described in paragraph 22 using the following methods: (a) Defendants do not allow their non-exempt retail branch employees to record all time worked in excess of 40 hours per workweek, (b) Defendants erase or modify their non-

exempt retail branch employees' recorded time in order to eliminate or reduce overtime hours, (c) Defendants provide "comp time" to their non-exempt retail branch employees in subsequent workweeks in lieu of paying overtime for hours worked in excess of 40 hours per workweek, and/or (d) Defendants require their non-exempt retail branch employees to perform work during unpaid breaks.

24. As a result of the methods described in paragraph 23, Defendants have failed to compensate Plaintiff and similarly situated non-exempt retail branch employees for this time, and when warranted, Defendants have failed to compensate Plaintiff and similarly situated non-exempt retail branch employees for all hours worked and, where applicable, the legally mandated overtime premium for hours worked over 40 in a workweek.

25. In failing to properly compensate Plaintiff and similarly situated non-exempt retail branch employees for all hours spent working, Defendants have acted willfully and with reckless disregard of clearly applicable FLSA provisions.

### **COLLECTIVE ACTION ALLEGATIONS**

26. Plaintiff brings this lawsuit as a collective action pursuant to 29 U.S.C. §216(b) of the FLSA, on behalf of the following class of potential opt-in litigants:

All persons who were, are, or will be employed by the Defendants as nonexempt employees at their Citizens Bank retail branches within three years from the commencement of this action who have not been compensated at one and one-half times the regular rate of pay for all services performed in excess of forty hours per week.<sup>1</sup>

27. Plaintiff and the above class members are "similarly situated," as that term is defined in 29 U.S.C. § 216(b), because, *inter alia*, they perform essentially the same respective job functions and worked pursuant to Defendants' same compensation policy, plan, or procedure

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<sup>1</sup> The names and addresses of the putative representative action plaintiffs are available from Defendants. To the extent required by law, notice will be provided to said individuals via First Class Mail and/or by the use of techniques and a form of notice similar to those customarily used in representative actions.

that requires them to perform work and/or requires them to be present at work while not compensating them for their services. In turn, this denies Plaintiff and the class wages for services performed, and, when applicable, denies them their overtime premium pay for hours worked over 40 in a workweek. Resolution of this action requires inquiry into many common facts, including, *inter alia*, Defendants' common compensation, timekeeping, and payroll practices.

**COUNT I**  
**(Alleging Violations of the FLSA)**

28. All previous paragraphs are incorporated as though fully set forth herein.

29. Plaintiff and the class members are employees entitled to the FLSA's protections.

30. Defendants are employers covered by the FLSA.

31. The FLSA entitles employees to compensation for every hour worked in a workweek. *See* 29 U.S.C. § 206(b).

32. The FLSA entitles employees to overtime compensation "not less than one and one-half times" their regular rate of pay for all hours worked over 40 in a workweek. *See* 29 U.S.C. § 207(a)(1).

33. Defendants violated the FLSA by failing to compensate Plaintiff and class members for all hours worked and by failing to pay Plaintiff and class members the legally mandated overtime premium rate of not less than one and one-half times the regular rate of pay for work performed in excess of 40 hours in a workweek. Therefore, Defendants have violated, and continue to violate, the FLSA, 29 U.S.C. §§201, *et seq.*, including 29 U.S.C. §207(a)(1).

34. In violating the FLSA, Defendants acted willfully and with reckless disregard of clearly applicable FLSA provisions and thus constitute a willful violation of the FLSA within the meaning of 29 U.S.C. §255(a).

35. Plaintiff, on behalf of himself and all similarly situated employees of Defendants, seeks damages in the amount of all respective unpaid overtime compensations at a rate of one and one-half times the regular rate of pay for work performed in excess of forty hours in a work week, plus liquidated damages, as provided by the FLSA, 29 U.S.C. §216(b), and such other legal and equitable relief as the Court deems just and proper.

36. Plaintiff, on behalf of himself and all similarly situated employees of Defendants, also seeks recovery of all attorneys' fees, costs, and expenses of this action, to be paid by Defendants, as provided by the FLSA, 29 U.S.C. §216(b).

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff seeks the following relief on behalf of himself and all other similarly situated employees who opt-in to this action:

A. An order permitting this litigation to proceed as a collective action pursuant to 29 U.S.C. § 216(b);

B. Prompt notice, pursuant to 29 U.S.C. § 216(b), of this litigation to all putative representative action plaintiffs (the FLSA opt-in class), apprising them of the pendency of this action and permitting them to assert timely FLSA claims in this action by filing individual Consents To Join pursuant to U.S.C. §216(b);

C. An injunction against Defendants and their officers, agents, successors, employees, representatives, and any and all persons acting in concert with Defendants, as provided by law, from engaging in each of the unlawful practices, policies, and patterns set forth herein;

D. A declaratory judgment that the practices complained of herein are unlawful under the FLSA;

- E. Back pay damages and prejudgment interest to the fullest extent permitted under the law;
- F. Liquidated damages to the fullest extent permitted under the law;
- G. Litigation costs, expenses, and attorneys' fees to the fullest extent permitted under the law; and
- H. Such other and further relief as this Court deems just and proper.

**JURY TRIAL DEMANDED**

Plaintiff demands a jury trial as to all claims so triable.

Date: January 21, 2010

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