## Court of Common Pleas of Philadelphia County Trial Division

# **Civil Cover Sheet**

For Prothonotary Use Only (Docket Number)

MAY 2016

E-Filing Number: 1605003677

000229

PLAINTIFF'S NAME SUSAN KUHN		DEFENDANT'S NAME BB&T CORPORATION	DEFENDANT'S NAME BB&T CORPORATION	
PLAINTIFF'S ADDRESS 500 WEST ANGLESEA DRIVE WILDWOOD NJ 08260			DEFENDANT'S ADDRESS 200 WEST SECOND STREET WINSTON-SALEM NC 27101	
PLAINTIFF'S NAME		DEFENDANT'S NAME	DEFENDANT'S NAME	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS	DEFENDANT'S ADDRESS	
PLAINTIFF'S NAME		DEFENDANT'S NAME	DEFENDANT'S NAME	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS		
TOTAL NUMBER OF PLAINTIFFS TOTAL NUMBER OF PLAINTIFFS	TAL NUMBER OF DEFENDANTS	COMMENCEMENT OF ACTION  Complaint Petition Ac  Writ of Summons Transfer Fr	tion	
AMOUNT IN CONTROVERSY COURT	PROGRAMS	117		
☐ \$50,000.00 or less ☐ Jur ☐ More than \$50,000.00 ☐ No		ss Tort Commerce vings Action Minor Cou ition Statutory A	rt Appeal Minors	
	ici. CEPISS PICTION			
CASE TYPE AND CODE				
C1 - CLASS ACTION				
STATUTORY BASIS FOR CAUSE OF ACTION				
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)		PRO PROTHY	IS CASE SUBJECT TO COORDINATION ORDER? YES NO	
MAY <b>02</b> 2016				
M. BRYANT				
TO THE PROTHONOTARY:				
Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: SUSAN KUHN				
Papers may be served at the address set forth below.				
NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY		ADDRESS		
R. ANDREW SANTILLO			WINEBRAKE & SANTILLO, LLC	
DIONE NUMBER			TWINING OFFICE CENTER 715 TWINING ROAD, SUITE 211	
PHONE NUMBER (215)884-2491	FAX NUMBER (215)884-2492	DRESHER PA 19025		
SUPREME COURT IDENTIFICATION NO. 93041		e-MAIL ADDRESS asantillo@winebrak	E-MAIL ADDRESS asantillo@winebrakelaw.com	
SIGNATURE OF FILING ATTORNEY OR PARTY D		DATE SUBMITTED	DATE SUBMITTED	
R. ANDREW SANTILLO		Monday, May 02, 20	Monday, May 02, 2016, 06:06 pm	

Peter Winebrake (PA Attorney No. 80496) R. Andrew Santillo (PA Attorney No. 93041) Mark J. Gottesfeld (PA Attorney No. 307752) Winebrake & Santillo, LLC 715 Twining Road, Suite 211 Dresher, PA 19025

Attorneys for Plaintiff and the Putative Class

Office of Judicial Records

SUSAN KUHN, on behalf of herself and others similarly situated

PHILADELPHIA COUNTY COURT OF COMMON PLEAS

Plaintiff,

CLASS ACTION

**BB&T CORPORATION**,

v.

Defendant.

#### **COMPLAINT -- CLASS ACTION** 10 — Contract: Other

#### NOTICE

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 the 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 OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PHILADELPHIA BAR ASSOCIATION Lawyer Referral and Information Service 1101 Market Street, 11th Floor Philadelphia, Pennsylvania 19107 (215) 238-1701

#### AVISO

Le han demandado a usted en la corte. Si usted guiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notification. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defenses o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demandaen contra suya sin previo aviso o notificacion. Ademas, la corte puede decidira favor del demandante y require que usted cumplacon todas las provisiones de esta demanda. Usted puede perder dinero o sus propriedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATA-MENTE SI NO TIENEABOGADO O SI NO TIENE EL DINERO SUFFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONOA LA OFFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

ASSOCIACION DE LICENCIADOS DE **FILADELFIA** Servicio De Referencia E Informacion Legal 1101 Market Street, 11th Floor Filadelfia, Pennsylvania 19107 (215) 238-1701

Plaintiff Susan Kuhn ("Plaintiff"), on behalf of herself and similarly situated individuals, brings this class action lawsuit against Defendant BB&T Corporation ("Defendant"), seeking all available relief under the Pennsylvania Minimum Wage Act ("PMWA"), 43 P.S. §§ 333.101, *et seq*. 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. This Court has personal jurisdiction over Defendant.
- Venue in this Court is proper under Pennsylvania Rules of Civil Procedure
   1006 and 2179 because Defendant regularly conducts business within Philadelphia
   County by, *inter alia*, operating multiple "National Penn Bank" branch locations within
   Philadelphia County.

#### **PARTIES**

- Plaintiff is an individual residing at 500 West Anglesea Drive, Wildwood,
   NJ 08260.
- 4. Defendant BB&T Corporation is a North Carolina corporation registered to do business in Pennsylvania and headquartered at 200 West Second Street, Winston-Salem, NC 27101.
- 5. Defendant is an employer covered by the record-keeping, minimum wage, and wage payment mandates of the PMWA.

#### **FACTS**

6. Defendant provides a wide range of retail and commercial banking as well as other financial services.

- 7. In approximately August 2015, Defendant entered into an agreement to acquire National Penn Bancshares, Inc. ("National Penn Bank").
- 8. On April 1, 2015, Defendant's acquisition of National Penn Bank was completed.
- 9. Upon consummation of the acquisition, National Penn Bank ceased to exist as an independent business entity.
- 10. Upon information and belief, Defendant succeeded to all of National Penn Bank's liabilities, including, *inter alia*, all known and unknown liabilities to former National Penn Bank employees for violations of federal, state, or local laws
- Defendant (and, prior to the acquisition, National Penn Bank) employed"Mortgage Loan Officers" ("MLOs") in Pennsylvania.
- 12. Plaintiff worked as a MLO in Pennsylvania during the three-year period until her retirement on approximately March 1, 2016.
- 13. Plaintiff and other MLOs had the primary duty of selling mortgage loan and refinance products to Defendant's (and, prior to the acquisition, National Penn Bank's) customers.
- 14. Plaintiff and other MLOs performed their work duties primarily from inside their home offices and/or Defendant's (and, prior to the acquisition, National Penn Bank's) office locations.
- 15. Plaintiff and other MLOs were compensated with a repayable draw plus commissions based on the number of mortgage loan and refinance products were purchased by Defendant's (and, prior to the acquisition, National Penn Bank's) customers.

- 16. Plaintiff and other MLOs regularly worked over 40 hours per workweek.
- 17. In particular, Plaintiff estimates that she worked an average of 47 or more hours a week during the three-year period prior to her retirement in March 2016.
- 18. When Plaintiff and other MLOs worked over 40 hours, Defendant and, prior to the acquisition, National Penn Bank) failed to pay Plaintiff and other MLOs any compensation, including overtime premium compensation, for their overtime work.

#### **CLASS ACTION ALLEGATIONS**

- 19. Plaintiff brings this lawsuit as a class action on behalf of herself and all individuals who, during any time in the past three years, worked for Defendant (and, prior to the acquisition, National Penn Bank) as MLOs in Pennsylvania.
- 20. This action is properly maintained as a class action pursuant to Pennsylvania Rules of Civil Procedure 1702, 1708, and 1709.
- 21. The class is so numerous that joinder of all individual members is impracticable.
- 22. Defendant's conduct with respect to Plaintiff and the class raises questions of law and fact that are common to the entire class.
- 23. Plaintiff's claims and Defendant's anticipated defenses are typical of the claims or defenses applicable to the entire class.
- 24. Plaintiff's interests in pursuing this lawsuit are aligned with the interests of the entire class.
- 25. Plaintiff will fairly and adequately protect class members' interests because she and her experienced and well-financed counsel are free of any conflicts of interest and are prepared to vigorously litigate this action on behalf of the entire class.

26. A class action provides the fairest and most efficient method for adjudicating the legal claims of all class members.

# COUNT I (Alleging PMWA Violations)

- 27. All previous paragraphs are incorporated as though fully set forth herein.
- 28. Plaintiff and other class members are employees entitled to the PMWA's protections.
  - 29. Defendant is an employer covered by the PMWA.
- 30. The PMWA entitles employees to compensation for every hour worked in a workweek. *See* 43 P.S. § 333.104(a). <sup>1</sup>
- 31. The PMWA entitles employees to overtime compensation "not less than one and one-half times" the employee's regular pay rate for all hours worked over 40 in a workweek. *See* 43 P.S. § 333.104(c).
- 32. Defendants violated the PMWA by failing to pay Plaintiff and the class members any compensation, including overtime premium compensation, for hours worked in excess of 40 during the workweek.

#### PRAYER FOR RELIEF

**WHEREFORE**, Plaintiff, on behalf of herself and other members of the class, seeks the following relief:

- A. An order permitting this action to proceed as a class action;
- B. Unpaid overtime wages to the fullest extent permitted under the law;
- C. Prejudgment interest to the fullest extent permitted under the law;

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<sup>&</sup>lt;sup>1</sup> Plaintiffs are not alleging that Defendant violated the minimum wage provisions of the PMWA.

- D. Litigation costs, expenses, and attorney's fees to the fullest extent permitted under the law; and
  - E. Such other and further relief as this Court deems just and proper.

Date: May 2, 2016 /s/ R. Andrew Santillo

Peter Winebrake R. Andrew Santillo Mark J. Gottesfeld

WINEBRAKE & SANTILLO, LLC

715 Twining Road, Suite 211

Dresher, PA 19025 Phone: (215) 884-2491

Attorneys for Plaintiff

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### **VERIFICATION**

- I, Susan Kuhn, hereby state:
- 1. I am the plaintiff in this action;
- 2. I verify that the statements made in the 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.

Dated: 4/29/2016

Signature Fuhr