

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

FILED

2010 OCT 12 P 2:43

U.S. DISTRICT COURT
EASTERN DISTRICT OF TENN.

BY _____ DEPT. CLERK

CORLISS COOPER, Individually and)
on behalf of other similarly situated)
individual Chattanooga Police Officers,)
Plaintiff,)
vs.)
CITY OF CHATTANOOGA,)
Defendant.)

No. 1.10-cv-279

Mattice/Carter

COMPLAINT

1. This is a collective action brought by a Chattanooga Police Lieutenant on behalf of herself and other similarly situated members of the Chattanooga Police Department for purposes of obtaining relief under the federal Fair Labor Standards Act of 1938 as amended, 29 U.S.C. §201, et. seq. (hereinafter “FLSA”) for unpaid overtime compensation, liquidated damages, costs, attorneys’ fees, declaratory and/or injunctive relief, and/or any such other relief the Court may deem appropriate.

2. Defendant has willfully violated the FLSA by intentionally failing and refusing to pay Plaintiff and other similarly situated employees all compensation due them under the FLSA and its implementing regulations beginning on July 20, 2010. Defendant has administered an unlawful compensation system that has failed to provide hourly compensation and premium overtime compensation to employees that work overtime hours since adoption and passing of its Resolution No. of 26366 of July 20, 2010,¹ and Ordinance No. 12414 of July 20, 2010.² Plaintiff and similarly situated

¹ A copy of which is attached hereto as Exhibit “1” and incorporated by reference pursuant to Rule 10(c) of the Federal Rules of Civil Procedure.

employees have been denied overtime compensation for overtime worked. Defendant's deliberate failure to compensate its Chattanooga Police Department employees for these hours worked violates federal law as set forth in FSLA.

JURISDICTION

3. Jurisdiction over this action is conferred on this Court by 29 U.S.C. §216(b) and 28 U.S.C. §§1331 and 1337.

4. Declaratory relief is authorized under 28 U.S.C. §§2201 and 2202.

5. This court is the proper venue pursuant to 28 U.S.C. §1391(b).

PARTIES

6. The individual Plaintiff is an employee of Defendant, within the meaning of FLSA §203(e). As shown by the written consent of Plaintiff attached to this complaint, Plaintiff has consented to become a member of this action pursuant to 29 U.S.C. §216(b).³ Plaintiff is an adult resident citizen of the Eastern District of Tennessee employed as a Lieutenant of Police by the Chattanooga Police Department.

7. The Defendant, City of Chattanooga, is a municipal corporation organized and existing under the laws of the State of Tennessee. The Defendant is, and at all relevant times has been, the employer of Plaintiff. The Chattanooga Police Department is the operating law enforcement agency of the City of Chattanooga.

8. The Defendant, City of Chattanooga, is an employer within the meaning of 29 U.S.C. §203(d).

² A copy of which is attached hereto as Exhibit "2" and incorporated by reference pursuant to Rule 10(c) of the Federal Rules of Civil Procedure.

³ A copy of which is attached hereto as Exhibit "3" and incorporated by reference pursuant to Rule 10(c) of the Federal Rules of Civil Procedure.

BACKGROUND

9. On February 19, 1985, the Supreme Court held in *Garcia v. San Antonio Metropolitan Transit Authority*, 105 S. Ct. 1005 (1985), that the FLSA applies to state and local employees. On November 13, 1985, the FLSA Amendments of 1985 (Public Law 99-150) was enacted. The FLSA Amendments of 1985 adjusted the provisions of the Act specifically to the concerns of public employees. Under the 1985 Amendments, liability for compliance with the FLSA became applicable to the Chattanooga Police Department on April 15, 1986.

FACTS OF THE FLSA CLAIM

10. Plaintiff brings this action on behalf of herself and all other similarly situated employees as authorized under the FLSA, 29 U.S.C. § 216(b). The similarly situated employees include: Collective Class: All Police Department members who are or have been employed by the Chattanooga Police Department in any rank as non-exempt FLSA personnel who worked overtime on and after July 20, 2010, without receiving compensation for each hour worked, including overtime compensation. (hereinafter “Collective Class”).

11. Plaintiff and the Collective Class work or have worked within the past year for the Chattanooga Police Department in their respective capacities as non-exempt FLSA employees.

12. Plaintiff and the Collective Class were compensated on an hourly basis.

13. The various agreements between the Chattanooga Police Department and the Plaintiff and Collective Class, at all relevant times provide for, among other things, compensation for every hour worked in excess of eight hours in any given day.

14. Pursuant to 29 U.S.C. § 207(a)(1), Defendant violated and continues to violate the FLSA overtime requirements by failing to provide compensation for Plaintiff, and those similarly situated, for employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which she is employed.

15. Upon information and belief, Defendant knew that Plaintiff and the Collective Class performed work that required payment of wages and overtime compensation. Upon information and belief, Defendant has operated under a scheme to deprive these employees of the requisite compensation by failing to compensate Plaintiff and the Collective Class for all hours worked.

16. Defendant's conduct, as set forth in this complaint, was willful and in bad faith, and has caused significant damages to Plaintiff and the Collective Class.

RECORD KEEPING

17. Defendant failed to keep appropriate records as required by the FLSA, with respect to the Plaintiff and Collective Class, sufficient to determine wages, hours, and other conditions and practices of employment in violation of the FLSA, 29 U.S.C. §§ 201, et seq., including 29 U.S.C. §§ 211(c) and 215(a).

COLLECTIVE ACTION ALLEGATIONS UNDER THE FLSA

18. This Claim for Relief is properly brought under and maintained as an opt-in Collective Action pursuant to the FLSA, 29 U.S.C. § 216(b), by Plaintiff and on behalf of Collective Class employees of the Chattanooga Police Department.

19. Upon information and belief, Plaintiff and the Collective Class are, and have been, similarly situated, have and have had substantially similar job requirements and pay provisions, and are and have been subject to the Chattanooga Police Department

decision, policy, plan, and common policies, programs, practices, procedures, protocols, routines, and rules willfully failing and refusing to compensate them for each hour worked including overtime compensation. The claims of Plaintiff stated herein are the same as those of the Collective Class.

20. Plaintiff, individually and on behalf of other such similarly situated employees, seeks relief on a collective basis challenging, among other FLSA violations, the Chattanooga Police Department's practice of failing to accurately record all hours worked and failing to pay employees for hours worked including overtime compensation.

21. The Collective Class is readily ascertainable. For purpose of notice and other purposes related to this action, their names, phone numbers, and addresses are readily available from the Chattanooga Police Department. Notice can be provided to the Collective Class via first class mail to the last address known to the Chattanooga Police Department and through electronic mail using the Chattanooga Police Department's electronic mail system and intranet capabilities.

CAUSE OF ACTION

22. The foregoing conduct of Defendant is in violation of the rights of Plaintiff under the Fair Labor Standards Act of 1938, as amended.

RELIEF


WHEREFORE, Plaintiffs respectfully request that this Court:

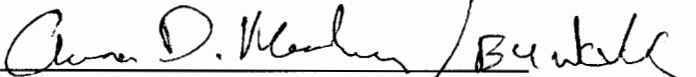
A. At the earliest possible time, issue an Order allowing Notice or issue such Court supervised Notice to all similarly situated current and former Chattanooga Police Department employees of this action and their rights to participate in this action. Such Notice shall inform all similarly situated current and qualified former employees of the pendency of this action, the nature of this action, and of their right to "opt in" to this action. Additionally, such notice will include a statement informing said employees that it is illegal for the Chattanooga Police Department to take any actions in retaliation of their consent to join this action;

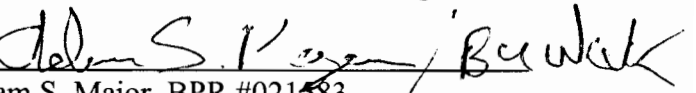
- B. Enter a declaratory judgment declaring that the Defendant has willfully, intentionally and wrongfully violated its statutory obligations and deprived the Plaintiff and all others similarly situated of their entitlement under the FLSA;
- C. Award each Plaintiff monetary damages in the form of overtime compensation and liquidated damages equal to their unpaid compensation and overtime compensation, plus interest;
- D. Award Plaintiffs their reasonable attorney's fees, costs and expenses, to be paid by Defendant; and
- E. Grant such other relief as may be just and proper.

Respectfully submitted,

MARKEL & MAJOR

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