

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY**

**RICHARD CRAWFORD AND** )  
**RACHAEL CRAWFORD** individually )  
and on behalf of all others similarly situated,) )

Plaintiffs, )

Civ. Case No.:

v. )

**CLASS AND COLLECTIVE ACTION  
COMPLAINT**

**GALLATIN COUNTY, KENTUCKY** )

Serve: Ken McFarland )  
County Judge Executive )  
Gallatin County Courthouse )  
200 Washington Street )  
Warsaw, Kentucky 41095 )

**JURY TRIAL DEMANDED**

Defendant. )

**CLASS AND COLLECTIVE ACTION COMPLAINT AND JURY TRIAL DEMAND**

Plaintiffs, RICHARD CRAWFORD (“Plaintiff Richard Crawford” or “Plaintiffs”) and RACHAEL CRAWFORD (“Plaintiff Rachael Crawford” or “Plaintiffs”), by and through the undersigned attorneys, brings this Complaint against Defendant, GALLATIN COUNTY, KENTUCKY (“Defendant” or “Gallatin County”), individually and on behalf of all similarly situated individuals and states as follows:

**INTRODUCTION**

1. This is a class and collective action brought by Plaintiffs on their own behalf and on behalf of all similarly situated current and/or former Gallatin County Emergency Medical Service (“EMS”) employees of Defendant to recover for Defendant’s willful violation of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, *et seq.*, Kentucky Wages and Hours Act (“KWHHA”), KY. Rev. Stat. Ann. §§ 337, *et seq.*, and other appropriate rules, regulations, statutes,

and ordinances.

2. Defendant, Gallatin County, Kentucky, is now and was at all times relevant, a county government within the Commonwealth of Kentucky. Defendant does business as Gallatin County EMS and has operative control over all policies and procedures regarding the payment of wages to the Gallatin County EMS employees.<sup>1</sup> Defendant, through its EMS employees, provides prompt and professional transportation of sick and injured individuals.

3. Defendant employed Plaintiffs and other similarly situated current and/or former Emergency Medical Technicians (“EMTs”) to work full-time, scheduling Plaintiffs and other similarly situated for forty (40) hours, or more, per week. Plaintiffs and those similarly situated were compensated for “day shift” hours – hours beginning at 6:00 AM through 5:59 PM – at various hourly rates above the state and federal minimum wages. In workweeks in which Plaintiffs and other similarly situated worked “day shift” hours in excess of forty (40), Plaintiffs and those similarly situated were compensated for “day shift” hours worked – hours beginning at 6:00 AM through 5:59 PM – at the overtime premium rate of one and a half times their regular rate of pay.

4. However, Plaintiffs and those similarly situated were subject to Defendants’ policy and practice of employing them to work “night shift” – hours beginning at 6:00 PM through 5:59 AM – at an hourly rate of far below the minimum wage. Further, in workweeks in which Plaintiffs and other similarly situated worked hours totaling forty (40) hours or more, Plaintiffs and other similarly situated would not be compensated at the overtime premium rate of one and a half times their regular rate of pay for any hours worked during the “night shift” – hours beginning at 6:00 PM through 5:59 AM.

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<sup>1</sup> <http://gallatincounty.ky.gov/dna/> (last visited September 1, 2016). *See e.g.* Gallatin County Fiscal Court April 14, 2016 Minutes, attached hereto as Exhibit A (stating, “Judge McFarland presented the new EMS Attendance and Overtime Policy”).

5. The U.S. Department of Labor specifically recognizes that “[s]tate and local government employers” are required to “pay all covered nonexempt employees, *for all hours worked*, at least the Federal minimum wage . . . [and] pay at least one and one-half times the employees’ regular rates of pay *for all hours* worked over 40 in the workweek”. *See* DOL Fact Sheet #7, at 1, attached hereto at Exhibit B (emphasis added).

6. Plaintiffs bring this action on behalf of themselves, and all other similarly situated hourly Gallatin County EMS employees of Defendant, to recover unpaid wages and overtime, liquidated damages, penalties, fees and costs, pre- and post-judgment interest, and any other remedies to which they may be entitled.

#### **JURISDICTION AND VENUE**

7. This Court has subject-matter jurisdiction over Plaintiff’s FLSA claim pursuant to 28 U.S.C. § 1331 because Plaintiff’s claims raise a federal question under 29 U.S.C. §§ 201, *et seq.*

8. This Court also has subject-matter jurisdiction over Plaintiff’s Collective Action FLSA claim pursuant to 29 U.S.C. § 216(b), which provides that suit under the FLSA “may be maintained against any employer . . . in any Federal or State court of competent jurisdiction.”

9. Defendant, Gallatin County, Kentucky, is now and was at all time relevant, a county government within the Commonwealth of Kentucky, so the FLSA applies to this case on an enterprise basis.

10. This Court has personal jurisdiction over Defendant because it is located within the Commonwealth of Kentucky and is a political subdivision of the Commonwealth of Kentucky.

11. This Court has supplemental jurisdiction over the Kentucky state law wage and hour class pursuant to 28 U.S.C. § 1367 because all Kentucky state law wage and hour claims are

so related to the federal claims that “they form part of the same case or controversy” such that they should be adjudicated in one judicial proceeding.

12. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because Defendant employ personnel in this District, and a substantial portion of the actions and omissions giving rise to the claims pled in this Complaint substantially occurred in this District.

### **PARTIES**

13. Plaintiff, RICHARD CRAWFORD, is an individual who resides in the County of Gallatin, City of Warsaw, Kentucky. Plaintiff Richard Crawford was employed by Defendant as an hourly Emergency Medical Technician (“EMTs”) from approximately December 2012 to August 2015. His hourly rate was \$11.79 for work performed during “day shift” hours – hours beginning at 6:00 AM through 5:59 PM. His hourly rate was \$4.50 for work performed during “night shift” hours – hours beginning at 6:00 PM through 5:59 AM.

14. Plaintiff, RACHAEL CRAWFORD, is an individual who resides in the County of Gallatin, City of Warsaw, Kentucky. Plaintiff Rachael Crawford was employed by Defendant as an hourly Emergency Medical Technician (“EMTs”) from approximately February 2013 to August 2015. Her hourly rate was \$11.88 for work performed during “day shift” hours – hours beginning at 6:00 AM through 5:59 PM. Her hourly rate was \$4.50 for work performed during “night shift” hours – hours beginning at 6:00 PM through 5:59 AM.

15. Plaintiffs brings this action on behalf of themselves and all other similarly situated individuals pursuant to 29 U.S.C. § 216(b), and their Consent to Sues are attached hereto as Exhibit C.

16. Defendant, Gallatin County, Kentucky, is now and was at all time relevant, a county government within the Commonwealth of Kentucky. Defendant does business as Gallatin County

EMS and has operative control over all policies and procedures regarding the payment of wages to the Gallatin County EMS employees.<sup>2</sup> Defendant, through its EMS employees, provides prompt and professional transportation of sick and injured individuals.

17. Defendant can be served through its County Judge Executive, Ken McFarland, at the Gallatin County Courthouse, located at 200 Washington Street, Warsaw, Kentucky 41095.

### **GENERAL ALLEGATIONS**

18. Plaintiff Richard Crawford was employed by Defendant as an hourly Emergency Medical Technician (“EMTs”) from approximately December 2012 to August 2015. His hourly rate was \$11.79 for work performed during “day shift” hours – hours beginning at 6:00 AM through 5:59 PM. His hourly rate was \$4.50 for work performed during “night shift” hours – hours beginning at 6:00 PM through 5:59 AM. *See, e.g.*, Plaintiff Richard Crawford’s paystubs for the pay period 10/27/2014 through 11/02/2014, 01/05/2015 through 01/11/2015, and 07/13/2015 through 07/19/2015, attached hereto as Exhibit D (noting “SQUAD1” as “day shift” hours and “STIPSTANDBY” as “night shift” hours).

19. Plaintiff Rachael Crawford was employed by Defendant as an hourly Emergency Medical Technician (“EMTs”) from approximately February 2013 to August 2015. Her hourly rate was \$11.88 for work performed during “day shift” hours – hours beginning at 6:00 AM through 5:59 PM. Her hourly rate was \$4.50 for work performed during “night shift” hours – hours beginning at 6:00 PM through 5:59 AM. *See, e.g.*, Plaintiff Rachael Crawford’s paystubs for the pay period 05/25/2015 through 05/31/2015 and 07/20/2015 through 07/26/2015, attached hereto as Exhibit D (noting “SQUAD1” as “day shift” hours and “STIPSTANDBY” as “night shift” hours).

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<sup>2</sup> <http://gallatincounty.ky.gov/dna/> (last visited September 1, 2016). *See e.g.* Gallatin County Fiscal Court April 14, 2016 Minutes, attached hereto as Exhibit A (stating, “Judge McFarland presented the new EMS Attendance and Overtime Policy”).

20. Plaintiffs' primary job duties as EMTs included, but was not limited to, responding to 911 calls and providing prompt and professional transportation of sick and injured individuals. These job duties remained the same whether performing work for Defendant during "day shift" hours or "night shift" hours.

21. Plaintiffs and other similarly situated EMTs were not required to remain on Defendant's premises during "day shift" hours or "night shift" hours, however, Plaintiffs and other similarly situated EMTs were required to be within close proximity to Defendant's premise at all times during their scheduled shifts. Plaintiffs and other similarly situated EMTs had to respond to any calls that came in for them during their shifts by arriving at Defendant's premises within two (2) minutes of the call. If Plaintiffs and other similarly situated EMTs did not arrive to Defendant's premises within two (2) minutes, Defendant's EMTs were subject to disciplinary action, including termination. This requirement limited Plaintiffs and other similarly situated EMTs ability to effectively choose how to use their time while on shift.

22. The U.S. Department of Labor specifically recognizes that employees who are "engaged to wait" are "working" – for instance, "a fireman who plays checkers while waiting for an alarm is working during such periods of inactivity". *See* DOL Fact Sheet #22, at 1, attached hereto at Exhibit E. Further, an employee who is required to remain "on call" but who doesn't have to stay on the employer's premises is "working" if "[a]dditional constraints on the employee's freedom" occurs. *Id.*

23. Similarly, the Kentucky Administrative Regulations provides that an employee who is "engaged to wait" is "on duty" because even though the "employee is allowed to leave the premises . . . during their period of inactivity . . . the employee is unable to use the time effectively for his own purpose. It belongs to and is controlled by the employer." 803 KY. Admin. Regs.

1:065 § 3(2) (2010). Further, the regulation states that an employee who is “required to remain on call on the employer’s premises or so close thereto that he cannot use the time effectively for his own purposes is working while on call.” *Id.* 1:065 § 3(4) (2010).

24. Throughout Plaintiffs employment with Defendant, Plaintiffs both regularly worked in excess of worked forty (40) hours per week. *See, e.g.*, Plaintiff Richard Crawford and Plaintiff Rachael Crawford’s paystubs at Exhibit D (noting (1) 55 total hours worked by Plaintiff Richard Crawford during the workweek of 10/27/2014 through 11/02/2014; (2) 57.5 total hours worked by Plaintiff Richard Crawford during the workweek of 01/05/2015 through 01/11/2015; (3) 47 total hours worked by Plaintiff Richard Crawford during the workweek of 07/13/2015 through 07/19/2015; (4) 64 total hours worked by Plaintiff Rachael Crawford during the workweek of 05/25/2015 through 05/31/2015; and (5) 61 total hours worked by Plaintiff Rachael Crawford during the workweek of 07/20/2015 through 07/26/2015).

25. At all times relevant to this Complaint, Defendant suffered or permitted Plaintiffs and other similarly situated former and/or current EMT employees to routinely perform compensable work during “night shift” hours – hours beginning at 6:00 PM through 5:59 AM – but did not pay at an hourly rate at or exceeding the Federal minimum wage. *See e.g.* Exhibit D (noting “STIPSTANDBY” hours paid at \$4.50 per hour for both Plaintiff Richard Crawford and Plaintiff Rachael Crawford).

26. Defendant willfully engaged in the policy and practice of paying Plaintiff and other similarly situated former and/or current EMT employees’ under the Federal and Kentucky minimum wage.

27. Defendants knew or should have known that, under the FLSA, Plaintiffs should have been paid wages at not less than \$7.25 an hour. 29 U.S.C. § 206(a)(1).

28. Defendants knew or should have known that, under the KWHHA, Plaintiffs should have been paid wages at not less than \$7.25 an hour. KY. Rev. Stat. Ann. § 337.275(1).

29. Despite this, Defendant did not compensate their employees at a rate of at least minimum wage for work performed during the hours beginning at 6:00 PM through 5:59 AM.

30. Defendant knew or should have known that, under the FLSA, Plaintiffs should have been paid overtime “at a rate not less than one and one-half times the regular rate” at which they were employed *for all compensable time* for workweeks in excess of forty (40) hours. 29 U.S.C. § 207(a)(1).

31. Defendant knew or should have known that, under the KWHHA, Plaintiffs should have been paid “at a rate of not less than one and one-half (1-1/2) times the hourly wage rate” at which they were employed *for all compensable time* for workweeks in excess of forty (40) hours. KY. Rev. Stat. Ann. § 337.285(1).

32. Despite this, Defendant did not pay overtime at one and one-half times the regular rate for all of Plaintiffs compensable time in excess of forty (40) hours. *See e.g.* Exhibit D (noting (1) 55 total hours worked by Plaintiff Richard Crawford during the workweek of 10/27/2014 through 11/02/2014, but only 4 hours paid at the premium overtime rate and 11 hours in excess of 40 not paid at the premium overtime rate; (2) 57.5 total hours worked by Plaintiff Richard Crawford during the workweek of 01/05/2015 through 01/11/2015, but only 6.5 hours paid at the premium overtime rate and 11 hours in excess of 40 not paid at the premium overtime rate; (3) 47 total hours worked by Plaintiff Richard Crawford during the workweek of 07/13/2015 through 07/19/2015, but zero hours paid at the premium overtime rate and 7 hours in excess of 40 not paid at the premium overtime rate; (4) 64 total hours worked by Plaintiff Rachael Crawford during the workweek of 05/25/2015 through 05/31/2015, but only 5 hours paid at the premium overtime rate



and 11 hours in excess of 40 not paid at the premium overtime rate; and (5) 61 total hours worked by Plaintiff Rachael Crawford during the workweek of 07/20/2015 through 07/26/2015, but only 3 hours paid at the premium overtime rate and 18 hours in excess of 40 not paid at the premium overtime rate).

33. In reckless disregard and willful violation of the FLSA and the KWHHA, Defendant adopted and then adhered to its policy and plan of employing Plaintiffs to perform compensable work at a rate below the federally mandated minimum wage for work performed during the hours beginning at 6:00 PM through 5:59 AM. Further, Defendant adopted and then adhered to its policy and plan of employing Plaintiffs to perform compensable work in excess of forty (40) hours per workweek, but not paying them at the premium overtime rate for all time worked over forty (40). These policies resulted in Plaintiffs and other similarly situated former and/or current EMTs being paid under the minimum wage for some hours and also, not being paid at the premium overtime rate for all compensable hours over forty (40) in violation of the FLSA.

#### **COLLECTIVE ACTION ALLEGATIONS**

34. Plaintiffs brings this action pursuant to 29 U.S.C. § 216(b) of the FLSA individually and on behalf of:

All current and former Emergency Medical Technicians and/or other job titles performing similar job duties employed by Defendant Gallatin County, Kentucky at any time during the three years prior to filing this complaint until completion of the lawsuit, who were not paid at a rate at or exceeding the minimum wage for all hours worked and/or who worked over 40 hours per week, and were not paid overtime at the premium rate for all hours worked over 40 in a workweek.

Plaintiffs reserve the right to amend the putative class definition as necessary.

35. Plaintiffs do not bring this action on behalf of any employees exempt from coverage under the FLSA pursuant to the executive, administrative, or professional exemptions, or for those

employees who were paid at the proper legal rate for each hour worked.

36. 29 U.S.C. § 216(b) *Conditional Certification “Similarly Situated” Standard*: With respect to the claims set forth in the FLSA action, conditional certification under the FLSA is appropriate because the employees described above are “similarly situated” to Plaintiff under 29 U.S.C. § 216(b). The class of employees on behalf of whom Plaintiff brings this collective action are similarly situated because: (a) they have been or are employed in the same or similar positions; (b) they were or are subject to the same or similar unlawful practices, policy, or plan (namely, Defendant’s policies of not paying their employees an hourly rate at or exceeding minimum wage for each hour worked and/or not paying their employees who work over forty (40) hours per week overtime at the premium rate for all hours over forty (40) worked in said workweek; (c) their claims are based upon the same factual and legal theories; and (d) the employment relationship between Defendant and every putative Class member is exactly the same and differs only by name, location, and rate of pay.

37. Upon information and belief, there are numerous other similarly situated current and/or former Emergency Medical Technicians (“EMTs”) or other job titles performing similar job duties who were not paid an hourly rate at or exceeding minimum wage for each hour worked and/or were not paid overtime at the premium rate for all hours worked over forty (40) in a workweek and would benefit from the issuance of a court-supervised notice of this action and the opportunity to join it. The precise number of collective Class members should be readily available from a review of Defendant’s personnel, scheduling, time and payroll records, and from input received from the collective class members as part of the notice and “opt-in” process provided by 29 U.S.C. § 216(b).

38. Plaintiffs share the same interests as the putative conditional class and will be

entitled to unpaid overtime compensation, interest, attorneys' fees and costs owed under the FLSA.

### CLASS ACTION ALLEGATIONS

39. Plaintiff brings the action pursuant to Federal Rule of Civil Procedure 23(b)(3) and (c)(4) on behalf of a putative Class defined to include:

All current and former Emergency Medical Technicians or other job titles performing similar job duties employed by Defendant Gallatin County, Kentucky at any time during the five years prior to filing this complaint until completion of the lawsuit, who were not paid at a rate at or exceeding the minimum wage for all hours worked and/or who worked over 40 hours per week, and were not paid overtime at the premium rate for all hours worked over 40 in a workweek.

Plaintiffs reserve the right to amend the putative class definition as necessary.

40. *Numerosity:* The members of the Kentucky Class are so numerous that joinder of all members in the case would be impracticable, and the disposition of their claims as a Class will benefit the parties and the Court. The precise number of Class members should be readily available from a review of Defendant's personnel and payroll records.

41. *Commonality/Predominance:* There is a well-defined community of interest among Kentucky Class members and common questions of *both* law and fact predominate in the action over any questions affecting individual members. These common legal and factual questions include, but are not limited to, the following:

- a. Whether hours worked by the Kentucky Class members beginning at 6:00 PM through 5:59 AM must be compensated at an hourly rate of at least the minimum wage under the KHWA;
- b. Whether all hours worked in excess of forty (40) in a workweek must be compensated at a rate of not less than one and one-half their regular rate of pay under the KHWA;
- c. Whether Defendant violated the KHWA through its pay practices;

- d. whether Defendants should be required to pay liquidated damages, attorneys' fees, costs, and interest for violating the KHWB; and
- e. whether Defendants' violations of the KHWB were willful.

42. *Typicality:* Plaintiffs' claims are typical of those of the Kentucky Class in that Plaintiffs and all other members suffered damages as a direct and proximate result of Defendant's common and systemic payroll policies and practices. Plaintiffs' claims arise from the same Defendant's policies, practices, and course of conduct as all other Kentucky Class members' claims and Plaintiffs' legal theories are based on the same legal theories as all other Kentucky Class members: whether all Class members were employed by Defendant on an hourly basis without receiving compensation (1) for all hours worked at an hourly rate of at least minimum wage and (2) for all hours worked in excess of forty (40) during a workweek at the premium overtime rate.

43. *Adequacy:* Plaintiffs will fully and adequately protect the interests of the Kentucky Class and Plaintiffs retained national counsel who are qualified and experienced in the prosecution of nationwide wage-and-hour class actions. Neither Plaintiffs nor their counsel have interests that are contrary to, or conflicting with, the interests of the Kentucky Class.

44. *Superiority:* A class action is superior to other available methods for the fair and efficient adjudication of the controversy, because, *inter alia*, it is economically infeasible Kentucky Class members to prosecute individual actions of their own given the relatively small amount of damages at stake for each individual along with the fear of reprisal by their employer.

45. The case will be manageable as a class action. Plaintiffs and their counsel know of no unusual difficulties in the case and Defendant has payroll systems that will allow the class,

wage, and damages issues in the case to be resolved with relative ease. Because the elements of Rule 23(b)(3), or in the alternative (c)(4), are satisfied in the case, class certification is appropriate. *Shady Grove Orthopedic Assoc., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 398 (2010) (“[b]y its terms [Rule 23] creates a categorical rule entitling a plaintiff whose suit meets the specified criteria to pursue her claim as a class action”).

### **RETALIATION ALLEGATIONS**

46. On or about December 2012, Plaintiff Richard Crawford complained to Defendant about the “night shift” pay being under the minimum wage and not getting paid for all hours over forty (40) at time-and-a-half in violation of the law. Defendant told Plaintiff Richard Crawford that someone would look into it. Defendant eventually raised “night shift” pay rate from \$3.00 per hour to \$4.50 per hour due to Plaintiff Richard Crawford’s complaint.

47. After the “night shift” pay rate was increased to \$4.50 per hour, Plaintiff Richard Crawford, regularly and on numerous occasions, complained to Defendant about “night shift” pay still remaining under the minimum wage and not getting paid for all hours over forty (40) at time-and-a-half in violation of the law. Defendant would always tell Plaintiff Richard Crawford that someone was looking into it, but no changes were made.

~~48.~~—On or about July 2015, Plaintiff Richard Crawford again complained to Defendant again about “night shift” pay being under the minimum wage and not getting paid for all hours over forty (40) at time-and-a-half. Plaintiff Richard Crawford demanded that he and Plaintiff Rachael Crawford get paid in compliance with the law. Additionally, on or about this same time period, Plaintiff Richard Crawford and Plaintiff Rachael Crawford requested to not be scheduled on August 1, 2015. Both Plaintiffs were subsequently scheduled on August 1, 2015 and were then written up for a “no call- no show” when they did not show up for their shifts on August 1, 2015.

~~49.~~48.

50.49. As a result of Plaintiff Richard Crawford’s attempt to protect his and Plaintiff Rachael Crawford’s rights to be properly compensated under the FLSA and the KHWB, Defendant

terminated both Plaintiff Richard Crawford and Plaintiff Rachael Crawford's employment on August 1, 2015 under the guise of the "no call- no show".

### COUNT I

#### VIOLATION OF THE FAIR LABOR STANDARDS ACT, 29 U.S.C. §§ 201, et seq., FAILURE TO MINIMUM WAGES

~~51~~50. Plaintiffs re-allege and incorporate all previous paragraphs herein.

~~52~~51. At all times relevant to this action, Defendant was an "employer" under the FLSA, 29 U.S.C. § 203(d), subject to the provisions of 29 U.S.C. §§ 201, *et seq.*

~~53~~52. Defendant is now and was at all time relevant, a county government within the Commonwealth of Kentucky, so the FLSA applies to this case on an enterprise basis. 29 U.S.C. § 203(s)(1)(C).

~~54~~53. At all times relevant to this action, Plaintiff Richard Crawford and Plaintiff Rachael Crawford were both individually each an "employee" of Defendant within the meaning of the FLSA, 29 U.S.C. § 203(e)(1).

~~55~~54. Plaintiffs either (1) engaged in commerce; or (2) engaged in the production of goods for commerce; or (3) employed in an enterprise engaged in commerce or in the production of goods for commerce.

~~56~~55. The position of Emergency Medical Technician ("EMT") is not exempt from the FLSA.

~~57~~56. Defendant's other job titles performing similar job duties are not exempt from the FLSA.

~~58~~57. At all times relevant to this action, Defendant "suffered or permitted" Plaintiffs to work and thus "employed" them within the meaning of the FLSA, 29 U.S.C. § 203(g).

~~59~~58. The FLSA requires an employer to pay employees the federally mandated wages at

not less than \$7.25 an hour. 29 U.S.C. § 206(a)(1).

~~60~~59. Defendant violated the FLSA by failing to pay Plaintiffs the federally mandated minimum wage rate for all hours per workweek. *See e.g.* Exhibit D (noting “STIPSTANDBY” hours paid at \$4.50 per hour for both Plaintiff Richard Crawford and Plaintiff Rachael Crawford).

~~61~~60. Upon information and belief, Defendant has corporate policies and practices of evading minimum wage pay for their hourly workers for all compensable time worked.

~~62~~61. Defendant’s violations of the FLSA were knowing and willful.

~~63~~62. By failing to compensate Defendant’s hourly workers at a rate not less than the federally mandated minimum wage for all hours worked in a workweek, Defendant has violated the FLSA, 29 U.S.C. §§ 201, *et seq.*, including 29 U.S.C. §§ 206(a)(1) and 215(a). All similarly situated employees are victims of uniform and company-wide policies which operate to compensate employees at a rate less than the federally mandated minimum wage rate. These uniform policies, in violation of the FLSA, have been, and continues to be, applied to all employees who have worked or are working for Defendant in the same or similar position as Plaintiffs.

~~64~~63. The FLSA, 29 U.S.C. § 216(b), provides that as a remedy for a violation of the Act, an employee is entitled to his or her unpaid minimum wages plus an additional equal amount in liquidated damages, costs, and reasonable attorneys’ fees.

## COUNT II

### VIOLATION OF THE FAIR LABOR STANDARDS ACT, 29 U.S.C. §§ 201, *et seq.*, FAILURE TO PAY OVERTIME WAGES

~~65~~64. Plaintiffs re-allege and incorporate all previous paragraphs herein.

~~66~~65. At all times relevant to this action, Defendant was an “employer” under the FLSA, 29 U.S.C. § 203(d), subject to the provisions of 29 U.S.C. §§ 201, *et seq.*

~~67~~66. Defendant is now and was at all times relevant, a county government within the

Commonwealth of Kentucky, so the FLSA applies to this case on an enterprise basis. 29 U.S.C. § 203(s)(1)(C).

~~68-67.~~ At all times relevant to this action, Plaintiff Richard Crawford and Plaintiff Rachael Crawford were both individually each an “employee” of Defendant within the meaning of the FLSA, 29 U.S.C. § 203(e)(1).

~~69-68.~~ Plaintiffs either (1) engaged in commerce; or (2) engaged in the production of goods for commerce; or (3) employed in an enterprise engaged in commerce or in the production of goods for commerce.

~~70-69.~~ The position of Emergency Medical Technician (“EMT”) is not exempt from the FLSA.

~~71-70.~~ Defendant’s other job titles performing similar job duties are not exempt from the FLSA.

~~72-71.~~ At all times relevant to this action, Defendant “suffered or permitted” Plaintiffs to work and thus “employed” them within the meaning of the FLSA, 29 U.S.C. § 203(g).

~~73-72.~~ The FLSA requires an employer to pay employees “at a rate not less than one and one-half times the regular rate” at which they were employed *for all compensable time* for workweeks in excess of forty (40) hours. 29 U.S.C. § 207(a)(1).

~~74-73.~~ Defendant violated the FLSA by failing to pay Plaintiffs the premium overtime rate for all hours worked in excess of forty (40) per workweek. *See e.g.* Exhibit D (noting (1) 55 total hours worked by Plaintiff Richard Crawford during the workweek of 10/27/2014 through 11/02/2014, but only 4 hours paid at the premium overtime rate and 11 hours in excess of 40 not paid at the premium overtime rate; (2) 57.5 total hours worked by Plaintiff Richard Crawford during the workweek of 01/05/2015 through 01/11/2015, but only 6.5 hours paid at the premium



overtime rate and 11 hours in excess of 40 not paid at the premium overtime rate; (3) 47 total hours worked by Plaintiff Richard Crawford during the workweek of 07/13/2015 through 07/19/2015, but zero hours paid at the premium overtime rate and 7 hours in excess of 40 not paid at the premium overtime rate; (4) 64 total hours worked by Plaintiff Rachael Crawford during the workweek of 05/25/2015 through 05/31/2015, but only 5 hours paid at the premium overtime rate and 11 hours in excess of 40 not paid at the premium overtime rate; and (5) 61 total hours worked by Plaintiff Rachael Crawford during the workweek of 07/20/2015 through 07/26/2015, but only 3 hours paid at the premium overtime rate and 18 hours in excess of 40 not paid at the premium overtime rate).

75-74. Upon information and belief, Defendant has corporate policies and practices of evading overtime pay for their hourly workers for all compensable time worked.

76-75. Defendant's violations of the FLSA were knowing and willful.

77-76. By failing to compensate Defendant's hourly workers at a rate not less than one and one-half times the regular rate at which they were employed for all hours worked in excess of forty (40) in a workweek, Defendant has violated the FLSA, 29 U.S.C. §§ 201, *et seq.*, including 29 U.S.C. §§ 207(a)(1) and 215(a). All similarly situated employees are victims of uniform and company-wide policies which operate to compensate employees at a rate less than the premium overtime wage rate. These uniform policies, in violation of the FLSA, have been, and continues to be, applied to all employees who have worked or are working for Defendant in the same or similar position as Plaintiffs.

78-77. The FLSA, 29 U.S.C. § 216(b), provides that as a remedy for a violation of the Act, an employee is entitled to his or her unpaid overtime wages plus an additional equal amount in liquidated damages, costs, and reasonable attorneys' fees.

**COUNT III**

**(Kentucky Class Action)  
VIOLATIONS OF THE KWA  
FAILURE TO PAY MINIMUM WAGES**

187. Plaintiffs re-allege and incorporate all previous paragraphs herein and further alleges as follows.

188. The KWA entitles employees to certain hourly minimum wages and requires employers to “pay each of his employees wages at a rate of not less than . . . seven dollars and twenty-five cents (\$7.25) an hour.” KY. Rev. Stat. Ann. § 337.275.

189. The KWA entitles employees to bring a private action against “any employer who pays any employee less than wages and overtime compensation to which such employee is entitled” and the employer is liable to the employee “for the full amount of such wages and overtime compensation” and “an additional equal amount as liquidated damages, and for costs and . . . attorney’s fees as may be allowed by the court.” KY. Rev. Stat. Ann. § 337.385(1).

190. At all times relevant to the action, Defendant was an employer within the meaning of the KWA. *See* KY. Rev. Stat. Ann. § 337.010(1)(d).

191. At all times relevant to the action, Plaintiffs were employees within the meaning of the KWA. *See* KY. Rev. Stat. Ann. § 337.010(1)(e).

192. Defendant violated the KWA by regularly and repeatedly failing to compensate Plaintiffs and the Kentucky Class at a rate not less than the minimum wage for the work performed during the “night shift” – hours beginning at 6:00 PM through 5:59 AM – as described in this Complaint.

193. Defendant’s actions were willful and not the result of mistake or inadvertence. KY. Rev. Stat. Ann. § 337.385(2).

194. As a result, Plaintiffs and the Kentucky Class have and will continue to suffer loss of income and other damages. Accordingly, Plaintiffs and the Kentucky Class are entitled to recover unpaid wages owed, plus costs and attorney fees, and other appropriate relief under the KWHHA at an amount to be proven at trial.

#### COUNT IV

**(Kentucky Class Action)**  
**VIOLATIONS OF THE KWHHA**  
**FAILURE TO PAY OVERTIME WAGES**

187. Plaintiffs re-allege and incorporate all previous paragraphs herein and further alleges as follows.

188. The KWHHA entitles employees to certain hourly overtime wages and requires employers to “any of his employees for a work week longer than forty (40) hours . . . at a rate not less than one and one-half (1-1/2) times the hourly wage rate at which he is employed.” KY. Rev. Stat. Ann. § 337.285.

189. The KWHHA entitles employees to bring a private action against “any employer who pays any employee less than wages and overtime compensation to which such employee is entitled” and the employer is liable to the employee “for the full amount of such wages and overtime compensation” and “an additional equal amount as liquidated damages, and for costs and . . . attorney’s fees as may be allowed by the court.” KY. Rev. Stat. Ann. § 337.385(1).

190. At all times relevant to the action, Defendant was an employer within the meaning of the KWHHA. *See* KY. Rev. Stat. Ann. § 337.010(1)(d).

191. At all times relevant to the action, Plaintiffs were employees within the meaning of the KWHHA. *See* KY. Rev. Stat. Ann. § 337.010(1)(e).

192. Defendant violated the KWHHA by regularly and repeatedly failing to compensate Plaintiffs and the Kentucky Class at a rate not less than one and one-half times the hourly wage rate

at which they were employed for all work performed in excess of forty (40) hours per workweek, as described in this Complaint.

193. Defendant's actions were willful and not the result of mistake or inadvertence. KY. Rev. Stat. Ann. § 337.385(2).

194. As a result, Plaintiffs and the Kentucky Class have and will continue to suffer loss of income and other damages. Accordingly, Plaintiffs and the Kentucky Class are entitled to recover unpaid wages owed, plus costs and attorney fees, and other appropriate relief under the KWHA at an amount to be proven at trial.

#### COUNT IV

**(On Behalf of the Plaintiffs)**  
**VIOLATIONS OF FLSA § 215(a)(3)**  
**RETALIATION**

193. Plaintiffs re-allege and incorporate all previous paragraphs herein and further alleges as follows.

194. Section 15(a)(3) of the FLSA provides that it is a violation for any person "to discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or cause to be instituted any proceedings under or related to this chapter".

195. Retaliation requires a complaint to an employer "be sufficiently clear and detailed for a reasonable employer to understand it . . . as an assertion of rights protected by the statute and a call for their protection." *Kasten v. Saint-Gobain Performance Plastics Corp.*, 563 U.S. 1, 14 (2011).

196. Here, Plaintiff Richard Crawford engaged in protected activity when he complained to Defendant, on numerous occasions, about illegal pay practices. Specifically, on or about July

2015, Plaintiff Richard Crawford demanded that he and Plaintiff Rachael Crawford get paid in compliance with the law.

197. Additionally, on or about July 2015, Plaintiff Richard Crawford and Plaintiff Rachael Crawford requested to not be scheduled on August 1, 2015. Both Plaintiffs were subsequently scheduled on August 1, 2015 and were then written up for a “no call- no show” when they did not show up for their shifts on August 1, 2015. As a result of Plaintiff Richard Crawford’s complaints to Defendant in an attempt to protect his and Plaintiff Rachael Crawford rights to be properly compensated under the FLSA and the KHWB, Defendant terminated both Plaintiff Richard Crawford and Plaintiff Rachael Crawford’s employment on August 1, 2015 under the guise of the “no call- no show”.

198. As a result of Defendant’s retaliation, Plaintiffs have suffered and will continue to suffer damages.

**WHEREFORE**, Plaintiffs requests the following relief:

- a. Certifying this case as a collective action in accordance with 29 U.S.C. § 216(b) with respect to the FLSA claims set forth above;
- b. Certifying this case as a class action pursuant to Rule 23(b)(2) and (b)(3) with respect to the Kentucky state law claims set forth above;
- c. Ordering Defendant to disclose in computer format, or in print if no computer readable format is available, the names and addresses of all FLSA Collective Class members, and permitting Plaintiffs to send notice of this action to all similarly situated employees, including the publishing of notice in a manner that is reasonably calculated to apprise said employees of their rights by law to join and participate in this lawsuit;
- d. Designating Named Plaintiffs as the FLSA Collective Class Representatives;
- e. Designating Named Plaintiffs as the Kentucky Class Action Representatives;
- f. Appointing undersigned counsel as FLSA Collective Class counsel with respect to Plaintiffs’ FLSA claims;

- g. Appointing undersigned counsel as Kentucky Class counsel with respect to Plaintiffs' Kentucky class action claims;
- h. Declaring that Defendant willfully violated the Fair Labor Standards Act and its attendant regulations as set forth above;
- i. Declaring that Defendant willfully violated the KWHHA, and its attendant regulations as set forth above;
- j. Declaring that Defendant violated its obligations under the FLSA;
- k. Declaring that Defendant violated its obligations under the KWHHA;
- l. Granting judgment in favor of Plaintiffs and against Defendant and awarding the difference between the amount of wages paid at a rate of under the minimum wage and the wage rate required – \$7.25 – multiplied by all hours that Plaintiffs worked at under the minimum wage per week for the past three years for the FLSA class;
- m. Granting judgment in favor of Plaintiffs and against Defendant and awarding the difference between the amount of wages paid at a rate of under the minimum wage and the wage rate required – \$7.25 – multiplied by all hours that Plaintiffs worked at under the minimum wage per week for the past five years for the Kentucky class;
- n. Granting judgment in favor of Plaintiffs and against Defendant and awarding the amount of unpaid overtime wages calculated at the rate of one and one-half (1.5) times the Plaintiff's regular rate multiplied by all hours that Plaintiff worked in excess of the prescribed number of hours per week for the past three years for the FLSA Class;
- o. Granting judgment in favor of Plaintiff and against Defendants and awarding the amount of unpaid overtime wages calculated at the rate of one and one-half (1.5) times the Plaintiff's regular rate multiplied by all hours that Plaintiff worked in excess of the prescribed number of hours per week for the past five years for the Kentucky Class;
- p. Awarding liquidated damages to Plaintiffs, in an amount equal to the amount of unpaid wages found owing to Plaintiffs and awarding Plaintiffs and the class members all other available compensatory damages available by law;
- q. Awarding damages in the form of lost wages, liquidated damages equal to lost wages, and front pay to Plaintiffs for Defendant's retaliation against them;
- r. Awarding reasonable attorneys' fees and costs incurred by Plaintiffs in filing this action as provided by statute;
- s. Awarding pre- and post-judgment interest to Plaintiffs on these damages; and

t. Such further relief as this court deems appropriate.

**JURY DEMAND**

Plaintiff demands a trial by jury of all claims asserted in this Complaint.

Dated: October 25, 2016

/s/Ronald E. Johnson, Jr.

Ronald E. Johnson, Jr. (KY 88302)

[rjohnson@pschachter.com](mailto:rjohnson@pschachter.com)

Schachter Hendy & Johnson, PSC

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Ph: 859-578-4444

Fax: 859-578-4440

*Local Counsel for Plaintiff*

And

Molly E. Nephew

MN Bar No. 0397607 (*Pro Hac Anticipated*)

Jacob R. Rusch

MN Bar No. 391892 (*Pro Hac Anticipated*)

David H. Grounds

MN Bar No. 0285742 (*Pro Hac Anticipated*)

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*Trial Counsel for Plaintiffs*

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
RICHARD CRAWFORD and RACHAEL CRAWFORD, individually and on behalf of all others similarly situated,
(b) County of Residence of First Listed Plaintiff GALLATIN
(c) Attorneys (Firm Name, Address, and Telephone Number)
Schachter, Hendy & Johnson PSC, 909 Wright's Summit Parkway, Suite 210, Fort Wright, KY 41011, (859) 578-4444
Johnson Becker PLLC, 444 Cedar Street, Suite 1800, St. Paul, MN 55101, (612) 436-1800

DEFENDANTS
GALLATIN COUNTY, KENTUCKY
Serve: Ken McFarland (County Judge Executive), Gallatin County Courthouse, 200 Washington Street, Warsaw, KY 41095
County of Residence of First Listed Defendant GALLATIN
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Motor Vehicle, Personal Injury, etc.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 29 U.S.C. § 201, et seq.
Brief description of cause: Violation of FLSA

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE



## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

**GALLATIN COUNTY FISCAL COURT**  
**April 14, 2016**

The meeting of the Gallatin County Fiscal Court was called to order by Judge Ken McFarland on April 16, 2016 at 6:30 p.m. at the Gallatin County Senior Center, Warsaw, Kentucky. Magistrates present were Eric Moore, Joel Shinkle, Sally Davis and Jeff Wallace. County Attorney John G. Wright was also present. Everyone stood for the pledge of allegiance.

A moment of silence was also observed in remembrance of outstanding citizen and county employee Walter Smith. Following the moment of silence, Jailer Jerry Webb requested the court consider retiring Mr. Smith's number in the county. Judge McFarland and the Magistrates agreed that the measure should be taken.

**Minutes:** Minutes from the meeting of March 10, 2016 were approved by Joel Shinkle. Jeff Wallace seconded the motion. All ayes.

**Consent Agenda:** Eric Moore moved to approve the consent agenda. Sally Davis seconded the motion. All ayes.

**Vendor Claims:** Claims were presented for approval to pay which included the added blue sheet for late arriving invoices. Jeff Wallace moved to approve the claims as presented. Eric Moore seconded. All ayes.

**March 2016 Financial Reporting**

1. Treasurer Report – Treasurer Lesa Bullard presented the report for the month ending March 31, 2016. Joel Shinkle moved to approve the Treasurer's Report and Jeff Wallace seconded. All ayes.
2. Interfund Cash Transfers – Eric Moore moved to approve the transfers and Sally Davis seconded. All ayes.
3. Budget Transfers – Joel Shinkle asked about a \$20,000 expense for Internet. He was informed by Treasurer Bullard that the funds were for supplies and equipment. Eric Moore moved to approve the budget transfers. Jeff Wallace seconded. All ayes.
4. Quarterly Financial Statement – Treasurer Bullard reported that the 3rd Quarter Financial Statement is in balance and has been uploaded to the Department for Local Government. Joel Shinkle moved to approve the financial statement as presented. Jeff Wallace seconded. All ayes.

Treasurer Bullard mentioned to the court that the 3<sup>rd</sup> quarter financial statement would be a good tool to use in the budget process, in order to see what has been spent and where during the past fiscal year through March 31.

**OLD BUSINESS**

No old business was discussed or acted on.

## **NEW BUSINESS**

### **MEADOWLARK ROAD PAVING**

Rachel Rassman and Carolyn White of Meadowlark Lane came before the court with signed petitions required for Gallatin County Fiscal Court to facilitate a road improvement project, including blacktop through property assessments. Of the 28 property owners, 16 responded with a "yes" vote, while 1 responded "no" and 11 did not respond. Judge McFarland noted that Meadowlark is a taxing district which makes the process a little easier, if approved. Mrs. Rassman asked the court if the assessments are based on a per lot basis or per property owner. Both Judge McFarland and County Attorney John G. Wright explained that the assessments could be done either way, but has to be a done in a rational basis. Jeff Wallace moved to accept the material as presented from the Meadowlark representatives to move the road project process forward to the next step. Eric Moore seconded. All ayes.

### **PERSONNEL POLICY – EMS ATTENDANCE & OVERTIME POLICY**

Judge McFarland presented the new EMS Attendance and Overtime Policy. Jeff Wallace moved to approve the policy. Eric Moore seconded.

Mary Lou Monhollen presented the court with an overview EMS billing process, success rates and suggestions for improvement. Judge McFarland noted that some of the issues have begun to be addressed and have collected approximately \$16,000 through those efforts. Magistrate Shinkle asked if there are any more local providers that could be looked into. Treasurer Bullard answered that she is meeting with a company from Cincinnati next week.

### **DEED FOR SUGAR CREEK RAMP – 20 ACRES**

Judge McFarland informed the court that the deed for the Sugar Creek Boat Ramp and 20 Acres of property has been received and is awaiting his signature for final execution. Magistrate Sally Davis asked if the property was at any cost to the county. Judge McFarland explained that the property was given to the county but it must be kept up by the county and a sign must be displayed acknowledging the source of the property. County Attorney Wright also noted that the county received LGEA funds to help with parks and recreation upkeep.

Eric Moore moved to give Judge McFarland authority to execute the deed as need to transfer the property to the county. Jeff Wallace seconded. All ayes.

### **FRANCHISE AGREEMENT – CINCINNATI BELL**

County Attorney Wright informed the court that in order to move forward with the non-exclusive franchise agreement with Cincinnati Bell, which was voted on and approved in the fall of 2015, the court needs to redo the approval in Ordinance form. Magistrate Sally Davis asked the County Attorney Wright clarify what is being asked. County Attorney Wright explained that Cincinnati Bell has received Federal Funding to provide additional services to rural areas. In late August Gallatin County put out for bids to extend service into rural areas not currently serviced. Cincinnati Bell bid and was granted a non-exclusive contract to provide internet, cable and phone service options. He acknowledged that this will be in competition with the county's internet but it will also reach areas not currently serviced by any providers. It was further noted that in Warsaw and other areas serviced by Cincinnati Bell and others, the county internet has multiple customers, so the increase in competition should not be a great factor to its success. Mr. Wright further explained that a very good deal was negotiated with Cincinnati Bell which includes public access channels, and the county offices being wired. Performing the ordinance is just a procedural step to complete the process that was previously approved by the Fiscal Court. Mrs. Davis asked if there was to be additional cost to the customers in the county. She was informed

that the service is completely by choice only. It is another option to what is currently offered. Eric Moore moved to approve the Ordinance to grant a Non-Exclusive Franchise Agreement to Cincinnati Bell. Sally Davis seconded. All ayes.

#### **BLACKTOP BIDS**

Judge McFarland informed the court that blacktop bids are out and are due back by 5/2/2016.

#### **HEALTH INSURANCE**

Judge McFarland informed the court that he has been in negotiations with the current healthcare insurance provider and has again shopped it to other providers. He explained that a 5% increase will be seen with the current provider and that the other companies did not even get close.

#### **PART-TIME EMPLOYEE PLACEMENT**

Judge McFarland informed the court that he plans on using part-time employees to fill in gaps where the county is short full time at Dispatch, Road Department and Parks Department. He further explained that the use of part-time employees should help to offset the 5% increase in health insurance costs.

#### **GALLATIN COUNTY CONSERVATION DISTRICT – ANNUAL PLAN OF WORK**

Jeff Wallace moved to approve the Conservation District's Annual Plan of Work. Joel Shinkle seconded. All ayes.

#### **CONSENT AGENDA BUSINESS**

#### **G.E.D. DONATION**

Judge McFarland and the Magistrates discussed making a donation to the G.E.D./Adult Education program in the next budget.

#### **EXTENSION SERVICE/4-H Donation**

Judge McFarland asked for the consideration of a donation to 4-H for equipment supplies for the building being constructed at the Park. Magistrates Davis and Shinkle, voiced their opinions that while they understand it is for public use, 2 acres of ground has been given for them to build the structure and that seems sufficient at this time. Discussion continued and Jeff Wallace moved to approve a donation for equipment supplies to 4-H. Eric Moore seconded. Motion passed, with Jeff Wallace, Eric Moore voting yes, Sally Davis and Joel Shinkle voting no and Judge McFarland breaking the tie by voting yes.

#### **BLACKTOP REPAIRS - CITY OF GLENCOE**

Judge McFarland reported that the City of Glencoe has approached the county about work to be done prior to their upcoming road paving work. The Judge explained that according to KRS 178.010 the county has the option to do the work at no charge or to charge the cities at the court's own discretion. Sally Davis moved to perform the project for the City of Glencoe. Jeff Wallace seconded. All ayes.

#### **TRIAD – EMS AGREEMENT**

Judge McFarland presented an agreement for Ambulance Transport Services and Linkage Agreement between the county and TRIAD. The agreement essentially puts into writing what has been taking place. That the county will send an ambulance when TRIAD needs one and in turn TRIAD will help the county with billing the patient. Jeff Wallace moved to approve the agreement. Eric Moore seconded. All ayes.

**COMMENTS**

Coroner Sue LeGrand came before the court requesting that a cooler located at the county barn for use by her office, be put together to see if it is working and in the event that it does not, look into the possibility of purchasing one. She explained that there is a need within the county to have the capacity to store a body in certain instances, which have previously occurred. Judge McFarland responded by offering to check into seeing if the components are functional before going to the expense of putting it together and take it from there. He added that the court will keep this request in mind when working on the budget. Mrs. LeGrand also informed the court that the Coroner's Van is starting to need significant maintenance and explained that it isn't set up properly for supplies, location of the deceased, etc. She requested that be kept in mind during budget planning time as well.

Eric Moore moved to go into closed session under KRS provision 61 exception to discuss Real Estate Negotiation. Joel Shinkle seconded the motion. All ayes.

Joel Shinkle moved to return to open session. Jeff Wallace seconded the motion. All ayes.

With no further business before the court, Eric Moore made a motion to adjourn. Sally Davis seconded the motion. All Ayes.

Doug Miles  
Gallatin County Fiscal Court Clerk

## Fact Sheet #7: State and Local Governments Under the Fair Labor Standards Act (FLSA)

This fact sheet provides general information concerning the application of the [FLSA](#) to State and local government employees.

### Characteristics

State and local government employers consist of those entities that are defined as public agencies by the FLSA. “Public Agency” is defined to mean the Government of the United States; the government of a State or political subdivision thereof; any agency of the United States, a State, or a political subdivision of a State; or any interstate governmental agency. The public agency definition does not extend to private companies that are engaged in work activities normally performed by public employees.

### Coverage

Section 3(s)(1)(C) of the FLSA covers all public agency employees of a State, a political subdivision of a State, or an interstate government agency.

### Requirements

The FLSA requires employers to:

- pay all covered nonexempt employees, for all hours worked, at least the [Federal minimum wage](#) of \$7.25 per hour effective July 24, 2009;
- pay at least one and one-half times the employees’ regular rates of pay for all hours worked over 40 in the workweek;
- comply with the youth employment standards; and
- comply with the recordkeeping requirements

**Youth Minimum Wage:** The 1996 Amendments to the FLSA allow employers to pay a youth minimum wage of not less than \$4.25 an hour to employees who are under 20 years of age during the first 90 consecutive calendar days after initial employment by their employer. The law contains certain protections for employees that prohibit employers from displacing any employee in order to hire someone at the youth minimum wage.

**Compensatory Time:** Under certain prescribed conditions, employees of State or local government agencies may receive compensatory time off, at a rate of not less than one and one-half hours for each overtime hour worked, instead of cash overtime pay. Law enforcement, fire protection, and emergency response personnel and employees engaged in seasonal activities may accrue up to 480 hours of comp time; all other state and local government employees may accrue up to 240 hours. An employee must be permitted to use compensatory time on the date requested unless doing so would “unduly disrupt” the operations of the agency.

In locations with concurrent State wage laws, some States may not recognize or permit the application of some or all of the following exemptions. Since an employer must comply with the most stringent of the State or

Federal provisions, it is strongly recommended that the State laws be reviewed prior to applying any of the exclusions or exemptions discussed herein.

For certain employees in the following examples, the calculation of overtime pay **may** differ from the general requirements of the FLSA:

- employees who solely at their option occasionally or sporadically work on a part-time basis for the same public agency in a different capacity than the one in which they are normally employed
- employees who at their option with approval of the agency substitute for another during scheduled work hours in the same work capacity
- employees who meet exemption requirements for Executive, Administrative, Professional or Outside Sales occupations
- hospital or residential care establishments may, with agreement or understanding of employees, adopt a fixed work period of 14 consecutive days and pay overtime after 8 hours in a day or 80 in the work period, whichever is greater
- mass transit employees who spend some time engaged in charter activities
- employees working in separate seasonal amusement or recreational establishments such as swimming pools, parks, etc.

#### **Employees Engaged in Fire Protection and Law Enforcement Activities**

Fire protection personnel include firefighters, paramedics, emergency medical technicians, rescue workers, ambulance personnel, or hazardous materials workers who:

1. are trained in fire suppression;
2. have the legal authority and responsibility to engage in fire suppression;
3. are employed by a fire department of a municipality, county, fire district, or State; and
4. are engaged in the prevention, control and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk.

There is no limit on the amount of nonexempt work that an employee employed in fire protection activities may perform. So long as the employee meets the criteria above, he or she is an employee “employed in fire protection activities” as defined in section 3(y) of the FLSA.

Law enforcement personnel are employees who are empowered by State or local ordinance to enforce laws designed to maintain peace and order, protect life and property, and to prevent and detect crimes; who have the power to arrest; and who have undergone training in law enforcement.

Employees engaged in law enforcement activities may perform some nonexempt work that is not performed as an incident to or in conjunction with their law enforcement activities. However, a person who spends more than 20 percent of the workweek or applicable work period in nonexempt activities is not considered to be an employee engaged in law enforcement activities under the FLSA.

Fire protection and law enforcement employees may at their own option perform special duty work in fire protection and law enforcement for a separate and independent employer without including the wages and hours in regular rate or overtime determinations for the primary public employer.

- Fire Departments or Police Departments **may** establish a work period ranging from 7 to 28 days in which overtime need be paid only after a specified number of hours in each work period.

- Any employee who in any workweek is employed by an agency employing less than 5 employees in fire protection or law enforcement may be exempt from overtime.

For more information on law enforcement and fire protection employees under the FLSA, see Fact Sheet #8.

### **Where to Obtain Additional Information**

**For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).**

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

**U.S. Department of Labor**  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

**1-866-4-USWAGE**  
TTY: 1-866-487-9243  
[Contact Us](#)



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY

**RICHARD CRAWFORD AND** )  
**RACHAEL CRAWFORD** individually )  
and on behalf of all others similarly situated, )

Plaintiffs, )

Civ. Case No.:

v. )

CONSENT TO SUE

**GALLATIN COUNTY, KENTUCKY** )

Serve: Ken McFarland )  
County Judge Executive )  
Gallatin County Courthouse )  
200 Washington Street )  
Warsaw, Kentucky 41095 )

Defendant. )

**CONSENT TO SUE**

1. Pursuant to the Fair Labor Standards Act, 29 U.S.C. § 216(b), I hereby consent to join and act as a plaintiff in the above-captioned lawsuit.

2. I agree to be bound by any adjudication or court rulings in the lawsuit, whether favorable or unfavorable.

3. I hereby designate Johnson Becker, PLLC to represent me in the lawsuit under the terms and conditions set forth on the following page.

Signature: *Rachael Crawford*  
Rachael Crawford (Sep 16, 2016)

Print Name: Rachael Crawford

Date Signed: Sep 16, 2016

GALLATIN CO. FISCAL COURT PAYROLL ACCOUNT

22581

RACHAEL A. CRAWFORD

Employee ID: RACHEAL MULLENIX

Social Sec # xxx-xx-1697

	This Check	Year to Date		Hours	Rate	Total
Gross	703.87	11,505.14	SQUAD1	48.00	11.79	565.92
Fed. Income	-56.70	-840.25	STIPSTANDBY	11.00	4.50	49.50
Soc. Sec	-41.02	-693.84	OTSQUUAD1	5.00	17.69	88.45
Medicare	-9.59	-162.28				
State	-32.12	-508.19				
LOCAL	-7.04	-115.06				
RETIREMENT	-35.19	-261.56				
RET1	-7.04	-52.33				
GALLATINCO	-7.04	-115.06				

Net Check: \$508.13 Total 64.00 703.87

Pay Period Beginning: May 25, 2015  
 Pay Period Ending: May 31, 2015

Check Date: 6/5/15  
 Weeks in Pay Period: 1

22720

**GALLATIN CO. FISCAL COURT PAYROLL ACCOUNT**

23123

RACHAEL A. CRAWFORD

Employee ID: RACHEAL MULLENIX

Social Sec # xxx-xx-1697

	This Check	Year to Date		Hours	Rate	Total
Gross	609.66	15,339.79	SQUAD1	40.00	11.88	475.20
Fed_Income	-43.41	-1,059.87	STIPSTANDBY	18.00	4.50	81.00
Soc_Sec	-35.53	-917.32	OTSQUAD1	3.00	17.82	53.46
Medicare	-8.31	-214.55				
State	-26.98	-662.07				
LOCAL	-6.10	-153.41				
RETIREMENT	-30.48	-453.26				
RET1	-6.10	-90.68				
GALLATINCO	-6.10	-153.41				
STDLIFE	-4.00	-20.00				

Net Check:

\$442.65

Total

61.00

609

Pay Period Beginning: Jul 20, 2015

Pay Period Ending: Jul 26, 2015

Check Date: 7/31/15

Weeks in Pay Period: 1

**U.S. Department of Labor**  
Wage and Hour Division



## **Fact Sheet #22: Hours Worked Under the Fair Labor Standards Act (FLSA)**

This fact sheet provides general information concerning what constitutes compensable time under the [FLSA](#). The Act requires that employees must receive at least the [minimum wage](#) and may not be employed for more than 40 hours in a week without receiving at least one and one-half times their regular rates of pay for the [overtime](#) hours. The amount employees should receive cannot be determined without knowing the number of hours worked.

### **Definition of "Employ"**

By statutory definition the term "employ" includes "to suffer or permit to work." The workweek ordinarily includes all time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed work place. "Workday", in general, means the period between the time on any particular day when such employee commences his/her "principal activity" and the time on that day at which he/she ceases such principal activity or activities. The workday may therefore be longer than the employee's scheduled shift, hours, tour of duty, or production line time.

### **Application of Principles**

Employees "Suffered or Permitted" to work: Work not requested but suffered or permitted to be performed is work time that must be paid for by the employer. For example, an employee may voluntarily continue to work at the end of the shift to finish an assigned task or to correct errors. The reason is immaterial. The hours are work time and are compensable.

**Waiting Time:** Whether waiting time is hours worked under the Act depends upon the particular circumstances. Generally, the facts may show that the employee was engaged to wait (which is work time) or the facts may show that the employee was waiting to be engaged (which is not work time). For example, a secretary who reads a book while waiting for dictation or a fireman who plays checkers while waiting for an alarm is working during such periods of inactivity. These employees have been "engaged to wait."

**On-Call Time:** An employee who is required to remain on call on the employer's premises is working while "on call." An employee who is required to remain on call at home, or who is allowed to leave a message where he/she can be reached, is not working (in most cases) while on call. Additional constraints on the employee's freedom could require this time to be compensated.

**Rest and Meal Periods:** Rest periods of short duration, usually 20 minutes or less, are common in industry (and promote the efficiency of the employee) and are customarily paid for as working time. These short periods must be counted as hours worked. Unauthorized extensions of authorized work breaks need not be counted as hours worked when the employer has expressly and unambiguously communicated to the employee that the authorized break may only last for a specific length of time, that any extension of the break is contrary to the employer's rules, and any extension of the break will be punished. Bona fide meal periods (typically 30 minutes or more) generally need not be compensated as work time. The employee must be completely relieved from duty for the purpose of eating regular meals. The employee is not relieved if he/she is required to perform any duties, whether active or inactive, while eating.

**Sleeping Time and Certain Other Activities:** An employee who is required to be on duty for less than 24 hours is working even though he/she is permitted to sleep or engage in other personal activities when not busy. An employee required to be on duty for 24 hours or more may agree with the employer to exclude from hours worked bona fide regularly scheduled sleeping periods of not more than 8 hours, provided adequate sleeping facilities are furnished by the employer and the employee can usually enjoy an uninterrupted night's sleep. No reduction is permitted unless at least 5 hours of sleep is taken.

**Lectures, Meetings and Training Programs:** Attendance at lectures, meetings, training programs and similar activities need not be counted as working time only if four criteria are met, namely: it is outside normal hours, it is voluntary, not job related, and no other work is concurrently performed.

**Travel Time:** The principles which apply in determining whether time spent in travel is compensable time depends upon the kind of travel involved.

**Home to Work Travel:** An employee who travels from home before the regular workday and returns to his/her home at the end of the workday is engaged in ordinary home to work travel, which is not work time.

**Home to Work on a Special One Day Assignment in Another City:** An employee who regularly works at a fixed location in one city is given a special one day assignment in another city and returns home the same day. The time spent in traveling to and returning from the other city is work time, except that the employer may deduct/not count that time the employee would normally spend commuting to the regular work site.

**Travel That is All in a Day's Work:** Time spent by an employee in travel as part of their principal activity, such as travel from job site to job site during the workday, is work time and must be counted as hours worked.

**Travel Away from Home Community:** Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly work time when it cuts across the employee's workday. The time is not only hours worked on regular working days during normal working hours but also during corresponding hours on nonworking days. As an enforcement policy the Division will not consider as work time that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

### **Typical Problems**

Problems arise when employers fail to recognize and count certain hours worked as compensable hours. For example, an employee who remains at his/her desk while eating lunch and regularly answers the telephone and refers callers is working. This time must be counted and paid as compensable hours worked because the employee has not been completely relieved from duty.

### **Where to Obtain Additional Information**

**For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).** This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

**U.S. Department of Labor**  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

**1-866-4-USWAGE**  
TTY: 1-866-487-9243  
[Contact Us](#)

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Kentucky



RICHARD CRAWFORD and RACHAEL CRAWFORD, individually and on behalf of all others similarly situated,

Plaintiff(s)

v.

GALLATIN COUNTY, KENTUCKY

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

GALLATIN COUNTY, KENTUCY
Serve: Ken McFarland
County Judge Executive
Gallatin County Courthouse
200 Washington Street
Warsaw, Kentucky 41095

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Ronald E. Johnson, Jr
Schachter, Hendy & Johnson PSC
909 Wright's Summit Parkway, Suite 210
Fort Wright, Kentucky 41011
Phone: (859) 578-4444

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Gallatin County, Kentucky Hit with EMS Employees' FLSA Class Action](#)

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