

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

1. RYAN ADAMS)
2. JACOB ALVAREZ)
3. AARON ATHERTON)
4. DAKOTA BAIN)
5. TRENT BALLEW)
6. LONDON BOEHM)
7. ALEX BRAND)
8. DAVID BROCK)
9. JUSTIN BUTTS)
10. KEVIN BYRON)
11. CHRISTOPHER CARTER)
12. JOSHUA CHRISTENSEN)
13. MARCUS DAVIS)
14. THAD DOLZALL)
15. DANIEL DOWELL)
16. KYLE EDIE)
17. DAMIEN EPPES)
18. BRANDON FORD)
19. JEREMY FOX)
20. BRITANI FREDERICKSON)
21. LANCE GOLDSBERRY)
22. TIM GRIFFITH)
23. MAX HELLMANN)
24. KAMRICK HOLDING)
25. DANIEL HUBER)
26. GAGE HUNT)
27. GEORGE IGNAS)
28. MATTHEW JOHNSON)
29. DOUGLAS JOINER)
30. BRANDON KINGERY)
31. JEFFREY KISH)
32. JUSTIN KNOX)
33. MARTIN LAUER)
34. TYLER LAWRENCE)
35. CHRISTOPHER LAWS)
36. WILLIAM LAWSON)
37. TODD MACY)
38. LEVI MARSHALL)
39. KEONDRE MCCARTNEY)
40. JOHN MICHALKE)
41. CHRISTOPHER MILLER)
42. RYAN MILLER)

CIVIL ACTION COMPLAINT
Case No. 1:25-CV-867

JURY TRIAL DEMANDED

43. AUSTIN MILLS)
44. BRENDAN MITCHELL)
45. WESTON MOON)
46. JOHN NELSON)
47. KYLER NIVENS)
48. JOHNATHAN NORTHERN)
49. ETHAN PATTON)
50. BRANDON PERISHO)
51. JEREMY PETER)
52. CHRISTIAN REYNOLDS)
53. ADAM ROACH)
54. DAVE ROECKEL)
55. ANDREW ROEMBKE)
56. DONALD ROSS)
57. TYLER ROSS)
58. MASON SANQUENTTI)
59. ROSS SERGI)
60. ROBERT STRINGER)
61. SHANNON WALLACE)
62. KRISTOFER WAYMAN)
63. KEVIN WHITT)
64. JORDAN WILES)
65. DAVID WINEGAR)
66. JONATHAN ZAJICEK, and)
67. JOHN ZEUNIK individually and on)
behalf of themselves and all others)
similarly situated)
)
Plaintiffs,)
)
v.)
)
TOWN OF BROWNSBURG, INDIANA)
)
Defendant.)

COMPLAINT

Plaintiffs, on behalf of themselves and all others similarly situated, file this action pursuant to 29 U.S.C. § 216(b) for violations of the Fair Labor Standards Act (“FLSA”) committed by the Defendant, Town of Brownsburg, Indiana (“Brownsburg”).

PARTIES

1. Plaintiffs are current or former employees of Defendant Brownsburg, and they bring this action on behalf of themselves and other similarly situated individuals due to Defendant Brownsburg’s violations of the FLSA. *See* 29 U.S.C. §201, *et seq.*

2. Defendant Brownsburg is a municipality incorporated and organized pursuant to the laws of the State of Indiana. Defendant Brownsburg operates the Brownsburg Fire Territory (“BFT”), which is the municipal department responsible for providing fire suppression and emergency medical services to the Brownsburg, Indiana area.

3. Defendant Brownsburg is an “employer” as defined by 29 U.S.C. § 203(d) and a “public agency” within 29 U.S.C. § 203(x). Upon information and belief, the Defendant at all relevant times has been aware of the provisions of the FLSA. Defendant Brownsburg is also an enterprise, as defined by 29 U.S.C. § 203(r).

4. Plaintiffs worked for Defendant Brownsburg during the period of April 2022 through present and at all times relevant have been “employees” within meaning of the FLSA. 29 U.S.C. § 203(e)(1).

5. Plaintiffs bring this action for declaratory judgment under 28 U.S.C. §§ 2201 and 2202 and for unpaid overtime compensation, liquidated damages, attorneys’ fees and costs, and all other relief available under the FLSA.

6. Pursuant to 29 U.S.C. §§ 216(b) and 256, Plaintiffs herein have each executed and hereby filed with the Court their respective consents in writing to become a party Plaintiff in this action, which are appended hereto as Exhibit A. Should other individuals similarly situated seek to join this action, their consents will be filed with the Court. These written consent forms set forth each Plaintiff's name and their intent to become a party to this suit.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 216(b) in that Plaintiffs' claims arise under the laws of the United States and Plaintiffs seek redress for violations of federal laws.

8. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), as Defendant is located within the Southern District of Indiana and a substantial part of the events and omissions giving rise to this action occurred within the Southern District of Indiana.

FACTS

9. Plaintiffs are current or former employees of Defendant Brownsburg, which at all times relevant, was an enterprise engaged in commerce or in the production of goods for commerce, as defined by 29 U.S.C. § 203(s). More specifically, each Plaintiff is, or was, employed by Defendant with BFT as a fire fighter covered by the 1937 Firefighters' Pension Fund or the 1977 Police Officers' and Firefighters' Pension Fund under the Indiana Code and who is, or was, a permanent and paid employee of the Town wherever assigned to duty, not including the positions of Fire Chief, Deputy Chief, or Assistant Chief.

10. Upon information and belief, Defendant Brownsburg has adopted an alternative work period for Plaintiffs pursuant to Section 7(k) of the FLSA. As a result, Plaintiffs must work

more than 212 hours in a 28-day work period before Defendant is required to pay overtime wages. *See* 29 U.S.C. § 207(k); 29 C.F.R. § 553.230(c).

11. Plaintiffs, while employed by Defendant Brownsburg as BFT fire fighters, are scheduled to work one, twenty-four-hour shift followed by forty-eight hours off. This work cycle is repeated throughout the year, with every third work cycle involving additional work hours for Plaintiffs. Through this mutually agreed upon schedule, Plaintiffs regularly work at least 216 or 240 hours every 28-day period.

12. Defendant Brownsburg, however, refuses to pay Plaintiffs overtime wages for any amount of time worked over 212 hours during their 28-day FLSA work period. For example, during the FLSA work period in January 2023, Plaintiff David Brock worked 244 hours but failed to receive overtime wages for 32 of his work hours. In addition, all Plaintiffs are paid at a rate of half their hourly rate whenever they work a shift designated as “SPECIAL” by Defendant Brownsburg.

13. Defendant Brownsburg’s overtime payment practices affect all Plaintiffs in that Defendant regularly fails to pay Plaintiffs overtime wages for the overtime hours that Plaintiffs have worked. Accordingly, Plaintiffs are owed overtime wages as part of their regularly scheduled work hours pursuant to Section 7(k) of the FLSA.

14. In addition, Defendant Brownsburg has also failed to properly calculate the correct hourly rates for Plaintiffs when determining their overtime wages.

15. Upon information and belief, Defendant Brownsburg calculates the hourly rates for all Plaintiffs by dividing their designated annual salary, which is set by position, by 2,756 hours. This calculation fails to account for incentives, earned bonuses, and other premium payments that Plaintiffs have earned through their work for Defendant.

16. To date, the Town has been on notice of these FLSA violations and has refused to remedy the issues.

17. On information and belief, the failure by Defendant to properly pay compensation owed to each Plaintiff is a knowing, willful, and reckless violation of § 29 U.S.C. 207 within the meaning of 29 U.S.C. § 255(a).

STATEMENT OF CLAIMS

COUNT I

Violations of Section 207 of the FLSA

Failure to Pay Overtime for All Hours
Plaintiffs Are Suffered or Permitted to Work
(Plaintiffs v. Defendant Brownsburg)

18. Plaintiffs hereby incorporate by reference the allegations in Paragraphs 1-17, as if fully set forth herein.

19. During the periods that Plaintiffs have worked in excess of 212 hours during their 28-day FLSA work period, Defendant has failed, and continues to fail, to provide Plaintiffs the rights and protections provided under the FLSA, including overtime pay at the rate of one and one-half times their regular rates of pay for all hours worked in excess of the hourly standards set forth under 29 U.S.C. § 207(a).

20. By failing to pay Plaintiffs overtime pay as required by the FLSA, Defendant has violated and is continuing to violate the provisions of the FLSA in a manner that is unreasonable, willful, and in bad faith. As a result, at all times material herein, Plaintiffs have been unlawfully deprived of overtime compensation and other relief for the maximum period allowed under the law.

21. As a result of Defendant's willful, unreasonable, and bad faith violations of the FLSA, there have become due and owing to Plaintiffs an amount that has not yet been precisely

determined. The employment and work records for Plaintiffs (including time and attendance records) are in the exclusive possession, custody and control of Defendant, and Plaintiffs are unable to state at this time the exact amount owed to them. Defendant is under a duty imposed under the FLSA, 29 U.S.C. § 211(c), and various other statutory and regulatory provisions, to maintain and preserve payroll and other employment records with respect to Plaintiffs from which the amount of Defendant's liability can be ascertained.

22. Pursuant to 29 U.S.C. § 216(b), Plaintiffs are entitled to recover liquidated damages in an amount equal to their backpay damages for Defendant's failure to pay overtime compensation.

23. Plaintiffs are also entitled to recover attorneys' fees and costs under 29 U.S.C. § 216(b).

COUNT II

Violations of Section 207 of the FLSA

Failure to Accurately Calculate
Regular Rate of Pay for Plaintiffs
(Plaintiffs v. Defendant Brownsburg)

24. Plaintiffs hereby incorporate by reference the allegations in Paragraphs 1-23, as if fully set forth herein.

25. Section 207(e) of the FLSA (29 U.S.C. § 207(e)), as well as the regulations of the U.S. Department of Labor, 29 CFR Part 778, *et seq.*, require that all forms of remuneration be included in the hourly rate at which FLSA overtime is paid, with some limited exceptions that are not applicable here.

26. Defendant has failed to include certain premium payments in Plaintiffs' regular rate of pay for purposes of computing overtime pay entitlements of Plaintiffs, resulting in Defendant paying Plaintiffs for overtime work at a rate that is below the rate mandated by the FLSA.

Defendant's failure to include these forms of additional compensation in Plaintiffs' regular rate of pay violates section 7(a) of the FLSA. 29 U.S.C. § 207(a); 29 C.F.R. § 778.207(b).

27. As a result of Defendant's systemic, continuing, willful, and bad faith violations of the FLSA, there have become due and owing to the Plaintiffs an amount that has not yet been precisely determined. The employment and work records for Plaintiffs reflecting such ongoing violations are in the exclusive possession, custody, and control of Defendant. Plaintiffs are unable to state at this time the exact amount owing to them, but from these records, Plaintiffs will be able to ascertain the precise extent of these violations of the FLSA. Defendant is under a duty imposed under the FLSA, 29 U.S.C. § 211(c), and various other statutory and regulatory provisions to maintain and preserve payroll and other employment records with respect to Plaintiffs from which the amount of Defendant's liability can be ascertained.

28. Pursuant to 29 U.S.C. § 216(b), Plaintiffs are entitled to recover liquidated damages in an amount equal to their backpay damages for Defendant's failure to pay overtime compensation.

29. Plaintiffs are also entitled to recover attorneys' fees and costs under 29 U.S.C. § 216(b).

REQUESTS FOR RELIEF

Accordingly, Plaintiffs request the following relief from the Court:

A. Declaring that Defendant has willfully, unreasonably, wrongfully, and without good faith, violated its statutory and legal obligations, and deprived each Plaintiff of his/her rights, protections and entitlements under federal law, as alleged in this Complaint;

B. Order a complete and accurate accounting of all the unpaid compensation to which each Plaintiff is entitled;

C. Enter judgment against Defendant and award each Plaintiff monetary damages in the form of back pay compensation, liquidated damages equal to his/her unpaid compensation, plus pre-judgment and post-judgment interest;

D. Award Plaintiffs their reasonable attorneys' fees, as well as costs and disbursement of this action; and

E. Award such other further relief as the Court deems necessary and proper.

A jury trial is demanded by all Plaintiffs for all claims triable by jury.

Respectfully submitted,

/s/ Andrew R. Duncan

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