

repeated here verbatim.

4. Regan is a citizen and resident of the State of South Carolina, County of Charleston.

5. Regan was employed by Defendant in the County of Berkeley, State of South Carolina. A substantial part of the events giving rise to these claims occurred in Berkeley County.

6. Underwood is a citizen and resident of the State of South Carolina, County of Berkeley.

7. Underwood was employed by Defendant in the County of Berkeley, State of South Carolina. A substantial part of the events giving rise to these claims occurred in Berkeley County.

8. Defendant is a political subdivision of the State of South Carolina, with the power to sue and be sued in its own name. Defendant operates an EMS, which is a division within the Fire Department, to provide emergency medical services to the citizens and residents of the City of Hanahan, as well as to other persons within Berkeley County and Charleston County need of emergency medical attention.

9. Plaintiffs bring this action individually and as an opt-in, collective action pursuant to 29 U.S.C. § 216(b), on behalf of a class of all individuals employed by Defendant and assigned to its EMS Division at any time within the three years prior to joining this lawsuit, who were non-exempt employees and who worked in excess of forty (40) hours in any given work week, but who did not receive overtime compensation of at least one and a half times their regular hourly wage for any and all overtime hours.

10. Plaintiffs also bring this action individually and as an opt-out collective action

under Rule 23 of the Federal Rules of Civil Procedure, on behalf of a class of all individuals employed by Defendant and assigned to its EMS Division at any time within the three years prior to the commencement of this lawsuit who were not paid all of their lawful wages for hours worked as required by SCPWA.

11. Upon information and belief, this action satisfies the requirements of Fed. R. Civ. P. 23(a), as alleged in the following particulars:

a. The proposed Plaintiff class is so numerous that joinder of all individual members in this action is impracticable;

b. There are questions of law and/or fact common to the members of the proposed Plaintiff class;

c. The claims of Plaintiffs are typical of the claims of the proposed Plaintiff class; and

d. Plaintiffs will fairly and adequately protect the interests of the class.

12. In addition, upon information and belief, this action satisfies one or more of the requirements of Fed. R. Civ. P. 23(b), because the questions of law and/or fact common to the members of the proposed Plaintiff class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

13. This court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 216(b) based upon Plaintiffs' claims under the FLSA.

14. This Court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367, over Plaintiffs' pendent claims, which are brought pursuant to the statutory law of the State of South Carolina, because those claims arise out of the same transaction or occurrence as the federal

claims alleged herein. These claims are limited to Plaintiffs employed in the state of South Carolina.

15. Venue in this District and in this Division is appropriate pursuant to 28 U.S.C. 1391(b)(2) and 1391(c), as a substantial part of the events giving rise to the claims herein occurred in this Division, the Defendants have extensive and deliberate contacts in this Division, and one of the individual Defendants is a resident of this Division.

16. Based upon the above, jurisdiction and venue are proper in this court and division.

17. The work and pay records of Plaintiffs are in the possession, custody, and/or control of Defendants, and Defendants are under a duty, pursuant to section 11(c) of the FLSA, 29 U.S.C. § 211(c), and the regulations of the United States Department of Labor, to maintain and preserve such payroll and other employment records from which the amount of Defendants' liability can be ascertained. Plaintiffs request an order of this Court requiring Defendants to preserve such records during the pendency of this action.

18. Regan was employed by Defendant's EMS Department from September 11, 2015 until March of 2016.

19. Underwood was employed by Defendant's EMS Department from June of 2014 until February of 2016.

20. At all times relevant to this Complaint, Plaintiffs were non-exempt employees for the purpose of the FLSA.

21. During the relevant limitations period, Plaintiffs regularly worked in excess of forty (40) hours per week, generally working one full twenty-four (24) hour shift every third day, totaling either forty-eight (48) hours or seventy-two (72) hours per work week. Plaintiffs did not receive the correct over-time pay as required by the FLSA, because Defendants utilized an

exemption under the FLSA that applies to law enforcement officers and firefighters only

22. At all times relevant to this Complaint, Plaintiffs and the members of the proposed Plaintiff class were not regularly engaged in fire protection or law enforcement activities during their employment with Defendant, nor were they regularly or routinely dispatched to perform fire suppression duties at fire suppression or law enforcement situations.

23. Regan complained to his superiors within Defendant's EMS Division and Fire Department and also to Defendant's Human Resources about the illegal policies and practices regarding the pay practices.

FOR A FIRST CAUSE OF ACTION
Violation of Fair Labor Standards Act
(Failure to Pay Overtime Wages)

24. Plaintiffs reallege each and every allegation contained in the above paragraphs as if repeated here verbatim.

25. Defendant is an "employer" for purposes of the Fair Labor Standards Act, 29 U.S.C. § 203(d), because it is a "public agency."

26. Plaintiffs and the members of the Plaintiff class were employees of Defendant for purposes of the Fair Labor Standards Act during times relevant to this Complaint.

27. Defendant failed to pay Plaintiffs and the members of the Plaintiff class at the rate of one-and-a-half times their normal rate of pay for all hours worked in excess of forty (40) hours per work week as required by section 7(a) of the FLSA, 29 U.S.C. § 207(a).

28. Plaintiffs and the members of the Plaintiff class are entitled to back wages at the rate of one-and-a-half times their regular rate of pay for all overtime hours worked in excess of forty (40) hours per week, pursuant to section 16(b) of the FLSA, 29 U.S.C. § 216(b).

29. The failure of Defendant to compensate Plaintiffs properly for overtime work, as

required by the FLSA, was willful or in reckless disregard of the FLSA.

30. As such, Plaintiffs seek to recover from Defendants the following damages:

- a. actual damages;
- b. liquidated damages of an equal amount; and
- c. reasonable attorneys' fees and the costs and disbursements of this action.

FOR A SECOND CAUSE OF ACTION
Violation of South Carolina Payment of Wages Act
S.C. Code § 41-10-10, et. al.
(Failure to Pay Wages Due)

31. Plaintiffs reallege each and every allegation contained in the above paragraphs as if repeated here verbatim.

32. Defendant is an "employer" as defined by the SCPWA, S.C. Code Ann. § 41-10-10(1).

33. Defendant employed Plaintiff and members of the Plaintiff class within the State of South Carolina.

34. Defendant owes Plaintiff and the members of the Plaintiff class "wages" as defined in § 41-10-10(2) of the Act, to compensate them for labor rendered to Defendant, as promised to Plaintiff and the members of the Plaintiff class and as required by law.

35. Defendant knowingly allowed Plaintiffs to "work off the clock" and failed to pay Plaintiffs for all labor rendered to Defendant.

36. Defendant has failed to pay Plaintiffs all wages due, as required by § 41-10-40 and -50 of the Act.

37. Defendant's failure to pay Plaintiffs was willful and in bad faith.

38. Pursuant to SCPWA § 41-10-80(C), Regan and the members of the Plaintiff class are entitled to recover in this action an amount equal to three (3) times the full amount of their

wages that were illegally deducted, plus reasonable attorneys' fees and costs.

FOR A THIRD CAUSE OF ACTION
Violation of Fair Labor Standards Act
29 U.S.C. § 215(a)(3)
(Retaliation)

39. Regan realleges each and every allegation contained in the above paragraphs as if repeated here verbatim.

40. Regan complained to Fire Chief Bowers of Hanahan and also to Defendant's Human Resources Department regarding Defendant's inability to use FLSA §207k exemption to pay Plaintiffs for overtime hours worked.

41. Defendant did nothing to change the policy.

42. Subsequent to Regan's complaint, he incurred increased scrutiny and was given unreasonably difficult tasks that other individuals were not asked to complete. He was disciplined for being unable to accomplish these new unreasonable tasks and eventually his employment with Defendant was terminated.

43. Pursuant to the terms of the FLSA, § 215(a)(3), an employer cannot discharge an employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act.

44. The remedial purpose of this section of the FLSA requires that it protect from retaliation employees who file intracompany complaints.

45. Section 215(a)(3) of the FLSA protects employees who have made intracompany complaints that are sufficiently clear and detailed for a reasonable employer to understand it, in light of both content and context, as an assertion of rights protected by the statute and a call for their protection. Regan's complaints to Defendant met this standard.

46. By terminating Regan's employment, Defendant unlawfully retaliated against him in

violation of 29 U.S.C. § 215(a)(3).

47. Under 29 U.S.C. § 216(b), any employer who violates the provisions of 29 U.S.C. § 215(a)(3) shall be liable for such legal or equitable relief as may be appropriate to effectuate the purposes of section 29 U.S.C. § 215(a)(3) of this title, including without limitation employment, reinstatement, promotion, and the payment of lost wages and an additional amount as liquidated damages, and reasonable attorneys' fees and the costs and disbursements of this action.

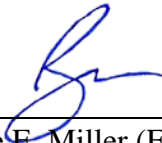
48. As a result of Defendant's retaliatory conduct, having shown their propensity and inclination to do so, Plaintiffs are entitled to an injunction enjoining Defendants during the pendency of this action and upon final determination hereof from further retaliatory conduct against any named or Opt-in Plaintiffs in this action.

WHEREFORE, having fully set forth their allegations against Defendants, Plaintiffs respectfully request that the Court enter judgment for the following relief:

- a. An order authorizing the sending of appropriate notice to current and former employees of Defendant who are putative members of the collective action, but have not yet "opted-in," under the FLSA;
- b. An order prohibiting Defendants from violating the FLSA in the future;
- c. For Plaintiffs, under the first and second causes of actions:
 - i. actual damages in an amount to be determined;
 - ii. liquidated damages of an equal amount; and
 - iii. reasonable attorneys' fees and costs;
- d. An order certifying a class action under Rule 23 of the Federal Rules of Civil Procedure, for the South Carolina Class, to remedy the class-wide violations of the South Carolina Payment of Wages Act against those named Defendants;

- e. Actual damages in the amount of wages due under SCPWA;
- f. Treble damages pursuant to SCPWA;
- g. Reasonable attorneys' fees and costs;
- h. Injunctive relief ordering Defendants to amend their wage and hour policies to comply with applicable federal and state laws;
- i. For Regan, for his cause of action for retaliation:
 - i. Actual damages for all back pay;
 - ii. Liquidated damages of an equal amount for Regan;
 - iii. Front pay in an amount to be determined by this court;
- j. Such further relief as the Court deems just and proper.

Plaintiffs request a trial by jury.



Bruce E. Miller (Fed Bar No. 3393)
BRUCE E. MILLER, P.A.
147 Wappoo Creek Drive, Suite 603
Charleston, SC 29412
T: 843.579.7373
F: 843.614.6417
bmiller@brucemillerlaw.com

**ATTORNEY FOR
JAMES REGAN and MASON UNDERWOOD,
on behalf of themselves and all others similarly
situated**

CHARLESTON, SC

April 7, 2016