

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

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<b>CHRISTOPHER BRUCE, JOHN DAVID DANIEL, BRIAN DALIEGE</b>	)	
	)	
	)	
	)	Case No. 19 cv 5632
<b>Plaintiff,</b>	)	
<b>vs.</b>	)	<b>Honorable</b>
	)	
	)	
<b>Cook County,</b>	)	
<b>Or</b>	)	
<b>Cook County Government LE</b>	)	
	)	
<b>Defendant.</b>	)	

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**COMPLAINT**

NOW COMES before this court, Plaintiffs, **BRUCE CHRISTOPHER, JOHN DAVID DANIEL, BRIAN DALIEGE** (“Plaintiffs”), by their attorney THE LAW OFFICE OF JOHN IRELAND, for their Complaint against the Defendant Cook County and/or Cook County Government LE and/or **Cook County Department of Homeland Security & Emergency Management (DHSEM)** and alleges as follows:

**NATURE OF ACTION AND PARTIES**

1. This civil action is brought by the above-named individual plaintiffs who seek redress for the Defendant’s violations of under the Fair Labor Standards Act, 29 U.S.C. § 201, et. seq. and for violations of the Illinois Minimum Wage Act (“IMWA”), 820 ILCS §105 et seq..

2. Plaintiffs are employed by the Defendant Cook County and/or Cook County Government LE or Cook County Department of Homeland Security & Emergency Management. (DHSEM).
3. Plaintiffs assert that they are and were misclassified, that Plaintiffs were paid salaries, but that they should not have been paid a salary; thus they are owed overtime wages.
4. Plaintiffs assert that they are employed as “First Responders” working for Cook County, under a Grant for the Department of Homeland Security (DHS), and their job duties are of those of a First Responder, which by DOL regulations have clearly classified as Non-Exempt employees.
5. Despite the plenary regulations supporting a non-exempt classification and Plaintiffs attempts to correct this misclassification, Defendant has classified Plaintiffs as Exempt and not paid overtime.
6. Plaintiffs have worked hundreds/thousands of hours of overtime each year, for each year Plaintiffs worked for Defendant, yet Plaintiffs were not paid for those work hours at an overtime rate of pay.

#### **JURISDICTION AND VENUE**

7. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. § 1331, this case arising under the laws of the United States, 28 U.S.C. § 1337, this action arising under Acts of Congress regulating commerce, and 28 U.S.C. § 1367. The Court has personal jurisdiction over Defendant pursuant to Federal Rule 4 (k)(1), in that Defendant has sufficient contact with the state of Illinois as it conducted business within the state. *See* 735 ILCS 5/2-209.

8. Defendant, is an enterprise that regularly and recurrently have at least two employees engaged in commerce.
9. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c).

### **GENERAL ALLEGATIONS**

10. This lawsuit arises out of Defendant's practice of knowingly and willfully misclassifying Plaintiffs as a salaried employees or Exempt Employees and for failing to pay overtime wages for overtime work hours for those weeks when they worked more than 40 hours in a particular week.
11. At all times relevant, Defendant classified Plaintiffs as exempt employees of the Defendant.
12. Plaintiffs have been employed by the Defendant for years.
13. Plaintiffs pleads their claims as follows:
  - a. Under the FLSA for two years from filing to this Complaint
  - b. Under the FLSA for three years as Defendant actions were willful.
  - c. Under the IWML for three years as permitted by statute.
14. Defendant Cook County is a unit of government in Illinois.
15. At all times relevant, Cook County was an employer, as defined by the FLSA and Illinois state law.
16. Defendant is engaged in interstate commerce as that term is used in the FLSA.
17. During the course of employment with Plaintiffs were misclassified as they were or should have been paid as a non-exempt employee and paid overtime wages.

18. During the course of their employment with Defendant, the Plaintiffs routinely worked in excess of 40 hours per week, sometimes 100 plus hours in a week.
19. Plaintiffs primary job duties are to respond to emergency situations and often work 12-15 hour shifts.
20. Plaintiffs initially were allowed some additional time off, for work hours over forty, which sometimes reduced the overall work hours, however, approximately a year ago even that relief was removed, as Cook County began to require Plaintiffs to work a full work week, regardless of the extra emergency hours that the Plaintiffs worked. This is also a proof willfulness, as the Defendants imposed this penalty based on Plaintiffs' lack of overtime pay.
21. Plaintiffs are entitled to actual and liquidated damages for Defendant's actions.
22. Defendant is required to fulfill all provisions of an exempt classification, and in this case Defendants failed to satisfy all of the aspects of those requirements.
23. Under the IMWL Plaintiff, like the FLSA, Plaintiff did not perform duties which would qualify Plaintiffs as "exempt" employees pursuant to **820 ILCS 105/4a**.
24. Defendant derived benefits by classifying Plaintiffs as "exempt" employees in that they failed to pay Plaintiff time-and-a-half for all hours worked in excess of forty (40) hours per pay period. Nor did the misclassified Plaintiffs receive adequate employer contributions for FICA and other employer payroll taxes.
25. As a result of the foregoing, Plaintiffs has been damaged in an amount to be determined at trial.

SPECIFIC FACTUAL ALLEGATIONS SUPPORTING MISCLASSIFICATION  
CLAIMS

26. Plaintiffs are employed by Cook County and/or are specifically assigned (employed) by the Cook County Department of Homeland Security & Emergency Management (DHSEM).
27. The Plaintiffs **BRUCE CHRISTOPHER, JOHN DAVID DANIEL, BRIAN DALIEGE** all share the Job Title of “Regional Coordinator” or “Regional Coordinator for Homeland Security and Emergency Management” (hereinafter referred to as “RC”).
28. The RC job duties, as found in the Defendant’s job description, reads:
- a. Under the direction of the Department of Homeland Security and Emergency Management (DHSEM) Executive staff, assists local incident commanders in accessing assets during crisis response and mitigation efforts. Assists in the conduct of DHSEM communications operations during a critical incident. Instructs external first responders in the operation and use of DHSEM resources and operational plans. Operates all DHSEM technology solutions and receives and transmits critical information to and from first responders. Passes critical information to DHSEM management and assists senior leaders in the assessing of DHSEM assets during crisis response and mitigation efforts. Performs other duties as assigned
29. By this duty description the Plaintiffs should be classified as non-exempt, given these job duties. These job duties do not fall into any exempt classification.

30. Plaintiffs are, in essence, First Responders, responding to emergency situations. While Plaintiffs have some communication duties, these are duplicate most First Responder's work duties.

31. The United States Department of Labor regulations also support this claim. The DOL Fact Sheet 17J, specifically states that First Responders are typically non-exempt.

32. Fact Sheet 17J reads in part:

“First responders generally do not qualify as exempt executives because their primary duty is not management. They are not exempt administrative employees because their primary duty is not the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers. Similarly, they are not exempt learned professionals because their primary duty is not the performance of work requiring knowledge of an advanced type in a field or learning customarily acquired by a prolonged course of specialized intellectual instruction. Although some first responders have college degrees, a specialized academic degree is not a standard prerequisite for employment.”

33. Here, Plaintiffs' job duties are similar or same as this definition:

- a. Plaintiffs' in this case do not qualify as exempt executives because their primary duty is not management.
- b. Plaintiffs' are not exempt administrative employees because their primary duty is not the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers.
- c. Plaintiffs in this case are not exempt learned professionals because their primary duty is not the performance of work requiring knowledge of an advanced type in a field or learning customarily acquired by a prolonged course of specialized intellectual instruction.

34. Thus by this DOL fact sheet definition the Plaintiffs are clearly misclassified, and are owed overtime wages.

35. Further evidence of Plaintiffs' misclassification is found in the Plaintiffs' own communications with the Department of Homeland Security (DHS). In a meeting and a

power point presentation given by DHS, the DHS officials stated that the Plaintiffs should be paid hourly, and paid overtime wages.

36. Plaintiffs' also approached a US Department of Labor employee, Madge Bean, and inquired about their classification. That DOL employee also stated that the Plaintiffs were misclassified.

37. Lastly, the Plaintiffs have approached their own employer, Cook County, asking for reclassification, their efforts were not successful, this is also further evidence of willfulness, as Defendant refused to consider the above strong evidence of misclassification.

38. The Plaintiffs' primary job duty is/was responding to emergency calls. The Plaintiffs' lacked discretion to refuse to respond to emergency calls, which take priority over all other aspects of their jobs.

39. Further Plaintiffs have some common police officer type duties such as surveillance/counter surveillance for the Cook County courthouse and large events such as the City of Chicago Marathon.

40. The Plaintiffs also have no responsibility for setting or controlling the budget, hiring/firing employees, setting staffing levels, changing work schedules, or approving overtime.

41. As some District court Judges require a specific week and specific overtime pleading, Plaintiff herein alleges those facts.

42. Plaintiff Bruce worked 55 hours, 15 hours of overtime in the four days of the week of July 21, 2019, not counting work on the Friday of that week.

43. Plaintiff Bruce worked the week of June 17-21 and worked 80.1 hours for just that week alone, or 40.1 hours of overtime.
44. Plaintiff Bruce was not paid overtime wages for those two weeks of work.
45. Plaintiff Daniel worked 55.99 hours in the week of 12/16/18 to 12/22/18. Thus Plaintiff Daniel, via his misclassification, was not paid 15.99 hours of overtime wages.
- 46.

**COUNT I**  
**FAILURE TO PAY OVERTIME WAGES UNDER THE FLSA**

47. Plaintiffs re-allege and incorporates by reference all the above allegations.
48. Under the FLSA, the Plaintiffs were entitled to be paid overtime for all hours worked over 40 in a given work week.
49. The overtime rate is computed by multiplying 1.5 times an employee's regular hourly rate, which includes all nondiscretionary compensation paid to employees.
50. Defendant failed to compensate the Plaintiffs at the overtime rate for work performed in excess of 40 hours per week in violation of the FLSA.
51. Defendant's violation of the FLSA for failure to pay the Plaintiff overtime wages was willful and deliberate.
52. Upon information and belief, Defendant's practices as described above were not approved in writing by the United States Department of Labor.
53. Upon information and belief, Defendant's practices were not based upon Defendant's review of any policy or publication of the United States Department of Labor.



54. Due to Defendant's violation of the FLSA, the Plaintiffs are entitled to recover from Defendant their unpaid compensation, liquidated damages, reasonable attorneys' fees, and the costs of this action, pursuant to 29 U.S.C. § 216(b).

**COUNT II**  
**FAILURE TO PAY OVERTIME UNDER ILLINIOS LAW**

55. Plaintiffs repeat and re-allege the above paragraphs.

56. Illinois law provides that an employee must be paid overtime, equal to 1.5 times the employee's regular rate of pay for all hours worked in excess of forty per week. Illinois Minimum Wage Law, 820 ILCS §105/4a *et. seq.*

57. Defendant failed to pay the Plaintiffs for overtime hours worked.

58. The foregoing actions of Defendant constitute violations of the Illinois Minimum Wage Law, 820 ILCS §105 *et. seq.* Defendant's actions were willful and not in good faith.

59. Defendant is liable to the Plaintiffs for actual damages, equitable relief, recovery of attorneys' fees and costs, and prejudgment interest as provided by law, pursuant to the Illinois Minimum Wage Law, 820 ILCS §105 *et. seq.*

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs respectfully requests that this Court grant the following relief:

- a. Award all actual damages suffered by the Plaintiffs;
- b. Enter an order declaring that Defendant willfully violated the overtime provisions of the FLSA and the IMWA;

- c. Award the Plaintiff damages in the amount of overtime wages required by the FLSA and the IMWA improperly denied him by Defendant's actions;
- d. Award the Plaintiff liquidated damages equal to Plaintiff's unpaid overtime compensation under the FLSA;
- e. Award Plaintiffs' 2% and/or 5% interest on unpaid overtime pursuant to the IMWL.
- f. Award the Plaintiff prejudgment interest pursuant to the IMWA;
- g. Award the Plaintiff post-judgment interest;
- h. Award the Plaintiff reasonable attorneys' fees as well as the costs of this action;
- i. Award such other and further relief as this Court deems necessary and proper, including but not limited to appropriate injunctive relief against any and all ongoing unlawful employment practices.

Dated: August 21, 2019

Respectfully submitted,

\_\_\_\_/S/John C. Ireland

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