

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

STEVEN E. GORRELL, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

WAKE COUNTY,

Defendant.

CA No. 5:21-CV-00129

COLLECTIVE ACTION COMPLAINT

Plaintiff Steven E. Gorrell (“Plaintiff Gorrell”), by and through counsel, on behalf of himself and all others similarly situated (collectively, “Plaintiffs”), hereby sets forth this collective action against Wake County (“Defendant”) and alleges as follows:

PRELIMINARY STATEMENT

1. This action arises out of Defendant’s systemic, company-wide willful failure to compensate Plaintiffs for all overtime hours worked at the appropriate overtime rate, in violation of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201 *et seq.* Defendant’s pay practices and policies were in direct violation of the FLSA.

2. Plaintiff Gorrell is a paramedic for Defendant, compensated on an hourly basis, who works the “Night” shift. Throughout the relevant period, Defendant maintained a corporate policy of failing to properly compensate paramedics for overtime hours worked at the appropriate overtime rate.

3. Throughout the relevant period, Defendant maintained a company-wide policy whereby a paramedic’s workweek for FLSA purposes started at 00:00 on Saturday and ended at 23:59 on Friday. Defendant’s policy required paramedics to work alternating weekly schedules,

whereby one week a paramedic would work three (3) twelve-hour shifts (hereinafter, “Week A”) and the following week work four (4) twelve-hour shifts (hereinafter, “Week B”).

4. Throughout the relevant period, for Plaintiff Gorrell and other similarly situated paramedics working the “Late Peak” or Night shift—which meant a portion of their hours worked was on two separate days—Defendant maintained a corporate policy requiring these paramedics to list all of their hours on the time slot for the day the paramedics first started their shift. For example, if Plaintiff Gorrell started his shift at 18:00 on Friday and worked until 06:00 on Saturday, Plaintiff Gorrell would list in his online timesheet that he worked twelve (12) hours on Friday only.

5. The result of Defendant’s time-keeping policy was that Plaintiff Gorrell and other similarly situated employees working the Late Peak and Night shifts on Fridays of Week A and into Saturday of Week B would have to list all of their hours worked on Friday of Week A, even though a portion of their shift was during Week B. Accordingly, Defendants were wrongfully compensating these employees at their regular rate when the portion of these employees’ shifts worked in Week B should have been paid at one and one-half (1.5) times their regular rate because these employees worked in excess of forty (40) hours in Week B.

6. Defendant, through its supervisors, was aware that Plaintiff and other similarly situated employees were working in excess of forty (40) hours per week in Week B but were counting a portion of these hours worked in Week A, thereby limiting the amount of overtime compensation. Defendant suffered or permitted, and in fact, required Plaintiffs to work in excess of forty (40) hours per week without being compensated for time and a half (1.5) for all of their overtime work.

7. Defendant’s practice of failing to compensate Plaintiffs at the appropriate minimum

and overtime rate(s) for all hours worked violated Plaintiffs' rights under the FLSA.

8. Plaintiff Gorrell brings this action for violation of the FLSA as a collective action, pursuant to Section 216(b) of the FLSA, 29 U.S.C. § 216(b), on behalf of the following class:

All individuals who were, are, or will be employed by Defendant in Wake County, North Carolina, as paramedics, emergency medical technicians, field training officers, or in similar positions, at any time within the three (3) years prior to the date of commencement of this action, through the present, and who were not compensated at the appropriate one and one-half (1.5) of their regular hourly rate for all hours worked in excess of forty (40) per week.

9. Defendant is liable for its failure to pay Plaintiffs for all work performed and at the appropriate overtime rate for hours worked in excess of forty (40) per week, as well as for all losses to Plaintiffs' retirement-benefits plans caused by Defendant's illegal time-keeping policy.

10. Plaintiffs who elect to participate in this FLSA collective action seek compensation at the appropriate overtime rate for all hours worked in excess of forty (40) per week, an equal amount of liquidated damages, prejudgment interest, and attorneys' fees and costs, pursuant to 29 U.S.C. § 216(b).

JURISDICTION AND VENUE

11. The allegations set forth in the preceding paragraphs are realleged and incorporated herein by reference.

12. This Court has federal question jurisdiction under 28 U.S.C. § 1331 for the claims brought under the FLSA, 29 U.S.C. § 201 *et seq.*

13. The United States District Court for the Eastern District of North Carolina has personal jurisdiction because Defendant conducts business in Wake County, North Carolina, which is located within this District.

14. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), inasmuch as Defendant conducted business in the Eastern District of North Carolina and a substantial part of

the events or omissions giving rise to these claims occurred in this District.

15. All of the alleged causes of action can be determined in this judicial proceeding and will provide judicial economy, fairness, and convenience for the parties.

PARTIES

16. The allegations set forth in the preceding paragraphs are realleged and incorporated herein by reference.

17. Plaintiff Gorrell is an adult resident of the State of North Carolina, residing at 1016 Northclift Drive, Raleigh, North Carolina 27609.

18. Plaintiff Gorrell is currently employed by Defendant, through the Wake County Department of Emergency Medical Services, as an hourly paid paramedic and has held that position since approximately 2020. Plaintiff Gorrell previously held the position of paramedic from approximately 2006 to 2015, and he held the position of field training officer from approximately 2015 to 2020.

19. The FLSA collective action Plaintiffs consist of individuals who were, are, or will be employed by Defendant as hourly paid, full-time emergency medical personnel—including but not limited to emergency medical technicians, paramedics, and field training officers—at any time within the three (3) year period prior to joining this lawsuit under 29 U.S.C. § 216(b) and who did not receive compensation for all hours worked, including one and one-half (1.5) times their regular rate for all hours worked over forty (40) in a week.

20. Defendant was and is a political subdivision and county of the State of North Carolina, duly chartered and existing pursuant to the provisions of N.C. Gen. Stat. § 153A-10 and vested with corporate powers and rights as specified in N.C. Gen. Stat. § 153A-11, including but not limited to the capacity to sue and be sued. At all times relevant, Defendant acted through its

managers, departments, and policy makers, including the Wake County Department of Emergency Medical Services and its employees, and the acts, edicts, and practices of said persons represent the official policies of Defendant.

COVERAGE

21. The allegations set forth in the preceding paragraphs are realleged and incorporated herein by reference.

22. At all times relevant to this action, Defendant has been a public agency within the meaning of the FLSA, 29 U.S.C. § 203(x).

23. At all times relevant to this action, Defendant has been an employer within the meaning of the FLSA, 29 U.S.C. § 203(d).

24. At all times relevant to this action, Defendant has been an enterprise engaged in commerce or the production of goods for commerce as defined by the FLSA, 29 U.S.C. §§ 203(s), 203(r), because Defendant acts as a public agency and such activities “shall be deemed to be activities performed for a business purpose” under Section 203(r)(2)(C).

25. At all times relevant to this action, Plaintiffs have been employees within the meaning of the FLSA, 29 U.S.C. § 207.

FACTUAL ALLEGATIONS

26. The allegations set forth in the preceding paragraphs are realleged and incorporated herein by reference.

27. Defendant, through the Wake County Department of Emergency Medical Services, is responsible for providing emergency ambulance service throughout Wake County, North Carolina, on a twenty-four (24) hour per day basis.

28. Defendant, through the Wake County Department of Emergency Medical Services,

employs emergency medical technicians, paramedics, and field training officers who are responsible for administering medical care and for the transportation of sick or injured persons in response to emergency and non-emergency calls.

29. Plaintiff Gorrell has been employed by Defendant, through the Wake County Department of Emergency Medical Services, from approximately 2015 through the present.

30. Plaintiff Gorrell's job duties include but are not limited to responding to emergency calls as a driver or attendant, administering necessary emergency medical care, treatment of injuries to body parts, and lifting and moving patients for transfer to a medical facility.

31. At all relevant times to this action, Plaintiffs were not responsible for performing fire protection or law enforcement activities.

32. When Plaintiffs are hired, Defendant advised Plaintiffs they would be compensated pursuant to an hourly rate for the first forty (40) hours of work and that they would be compensated at a rate of one and one-half (1.5) times their regular hourly rate for any hours worked over forty (40), i.e., overtime pay.

33. Pursuant to Defendant's policy, the standard shift for Plaintiffs is a twelve (12) hour assignment, and Plaintiffs' schedules are on a rotating schedule, which rotates biweekly.

34. Pursuant to Defendant's policy, shifts have staggered start times: Day (06:00–07:30); Early Peak (09:00–11:00); Late Peak (14:00–15:00); and Night (18:00–19:30).

35. Pursuant to Defendant's policy, the structure of the FLSA workweek for Plaintiffs is that the workweek starts at 00:00 on Saturday and ends at 23:59 on the following Friday.

36. Pursuant to Defendant's policy, Plaintiffs' biweekly schedule is as follows: in week A, an employee would work three (3) twelve-hour shifts, and the following week, Week B, the employee would work four (4) twelve-hour shifts. Accordingly, Plaintiffs would work

approximately thirty-six (36) hours in Week A and approximately forty-eight (48) hours in Week B.

37. Further, Defendant's policy required employees working the Late Peak or Night shift—which meant a portion of their hours worked was on two separate days—to record all of their hours worked on the day their shift started instead of on the two separate days that they actually worked.

38. However, for any Continuing Medical Education (CME) training classes employees were required to work, Defendant's policy required employees to list their hours on the day the CME class was actually completed. This was in line with Defendant's policy that "Departments[, such as the Wake County Department of Emergency Medical Services,] are not allowed to 'carry over' extra hours worked in one workweek to another workweek."

39. The result of Defendant's time-keeping policy for regular hours worked (as opposed to hours worked on CME classes) was that Plaintiffs working the Late Peak and Night shifts on Fridays of Week A and into Saturday of Week B would have to list their hours worked on Friday of Week A, even though a portion of their shift was during Week B and thus should have been compensated at one and one-half (1.5) times their regular pay.

40. Further, the result of Defendant's time-keeping policy for regular hours worked was that Plaintiffs' workweek in Week A for FLSA purposes was one hundred seventy-four (174) hours instead of one hundred sixty-eight (168) hours as required by the FLSA because Plaintiffs would have to move or 'carry over' an additional six (6) hours or more to Week A from Week B when they worked the Late Peak or Night shift on Friday of Week A.

41. Upon information and belief, Defendant first implemented the following plan in approximately 2008 and has not changed it since its implementation. Accordingly, Plaintiffs have

been continuously subjected to Defendant's time-keeping policy for over three years prior to filing the present action.

42. Defendant's own policy states that "[a]ll schedules must be in accordance with the Fair Labor Standards Act (FLSA)." This policy further provides: "However, it shall be Wake County policy to avoid overtime work whenever possible."

43. As described herein, Defendant willfully violated Plaintiffs' rights by failing to pay them the wages they were owed.

44. Upon information and belief, at all times relevant to this action, Defendant's uniform approach throughout their operations in compensating Plaintiffs was intentionally done to evade their obligations under the FLSA.

45. Not only did Defendant's time-keeping policy affect Plaintiffs' overtime-pay calculations, it also negatively affected Plaintiffs' retirement-benefits plans.

46. As full-time, benefit-eligible employees, Plaintiffs were offered and automatically enrolled into two retirement-benefits plans: (1) the Local Governmental Employee's Retirement System (LGERS) Pension Plan and (2) the North Carolina Total Retirement Plans 401(k) Contribution plan (hereinafter, "401(k) Plan").

47. Benefit-eligible employees, such as Plaintiffs, are automatically members of the LGERS Pension Plan upon being hired by Defendant and are required to contribute six (6) percent of their gross salary each month through pre-tax payroll deductions.

48. As for the employer's contribution to the LGERS Pension Plan, Defendant and the Wake County Department of Emergency Medical Services were required to contribute an actuarially-determined percentage of the gross payroll of members each month to the LGERS Pension Plan for benefits.

49. Upon retirement, an employee enrolled in the LGERS Pension Plan receives an annual benefit, which is 1.85% of the employee's average final compensation times the total years and months of creditable service. Average final compensation is "the average of [the employee's] salary during [their] four highest-paid years in a row."

50. Thus, Defendant's time-keeping policy negatively affects Plaintiffs' benefits under the LGERS Pension Plan in two ways: (1) it lowers the amounts contributed by Defendant, through Wake County Department of Emergency Medical Services, and the employee each month into the Plan; and (2) it decreases an employee's average final compensation, which determines an employee's annual benefit upon retirement.

51. As for the 401(k) Plan, Plaintiffs are automatically enrolled in this Plan upon being hired, and Defendant automatically contributes five (5) percent (pre-tax) annually to Plaintiffs' 401(k) Plans.

52. Pursuant to Defendant's policy, there are annual contribution limits for Plaintiffs—if under the age of fifty (50), employees are capped at \$19,500.00, including Defendant's contribution, per year; if over the age of fifty, employees may contribute an additional \$6,000.00.

53. Thus, Defendant's time-keeping policy negatively affects Plaintiffs' benefits under the 401(k) Plan in two ways: (1) it lowers the amount contributed by Defendant, through the Wake County Department of Emergency Medical Services, into the 401(k) Plan each year; and (2) by failing to properly pay Plaintiffs for all overtime hours worked, Plaintiffs have less money to invest into their 401(k) Plans.

FLSA COLLECTIVE ACTION ALLEGATIONS

54. The allegations set forth in the preceding paragraphs are realleged and incorporated herein by reference.

55. For purposes of the FLSA collective action claims, similarly situated employees include individuals who were, are, or will be employed by Defendant as full-time, nonexempt emergency medical personnel, including but not limited to emergency medical technicians, paramedics, and field training officers, at any time within the three (3) year period prior to joining this lawsuit under 29 U.S.C. § 216(b) and who did not receive compensation for all hours worked, including one and one-half (1.5) times their regular rate for all hours worked over forty (40) in a week.

56. There are numerous (in excess of three hundred (300), upon information and belief) similarly situated current and former employees in North Carolina that fall within the scope of the aforementioned proposed collective class.

57. The members of the proposed collective action, like Plaintiff Gorrell, were employed as emergency personnel and were subject to the same or similar pay practices.

58. The members of the proposed collective action are known to Defendant, are readily identifiable, and may be located through Defendant's records.

59. Pursuit of this action collectively will provide the most efficient mechanism for adjudicating the claims of Plaintiffs.

60. Plaintiff Gorrell requests that he be permitted to serve as representative of those who consent to participate in this action and that this action be conditionally certified as a collective action pursuant to 29 U.S.C. § 216(b).

61. Pursuant to 29 U.S.C. § 216(b), attached hereto and filed with the instant Complaint as Exhibit A is a Consent to File Suit as Plaintiff executed by Plaintiff Gorrell.

FIRST CAUSE OF ACTION

Violation of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq*, Brought by Plaintiff Gorrell on Behalf of Himself and All Similarly Situated Employees

62. The allegations set forth in the preceding paragraphs are realleged and incorporated herein by reference.

63. Under the FLSA, an “employee” is defined as “any individual employed by an employer[,]” 29 U.S.C. § 203(e)(1), and an “employer” is defined as “any person acting directly or indirectly in the interest of an employer in relation to an employee and includes a public agency,” *Id.* § 203(d). The FLSA further defines “employ” broadly, covering anyone who is “suffer[ed] or permit[ed] to work.” *Id.* § 203(g).

64. At all relevant times, Defendant has been and continues to be an “employer” engaged in “commerce” and/or the production of “goods” for “commerce” within the meaning of the FLSA, 29 U.S.C. §§ 203(s), 203(r), given Defendant acts as a public agency and such activities “shall be deemed to be activities performed for a business purpose” under Section 203(r)(2)(C).

65. At all relevant times, Defendant has employed and continues to employ “employee[s,]” including Plaintiff Gorrell and each of the members of the prospective FLSA class, within the meaning of the FLSA.

66. Pursuant to the FLSA, 29 U.S.C. § 207(a), employers must pay non-exempt employees at a rate of one and one-half (1.5) times their regular rate of pay for all hours worked over forty (40) in a single workweek.

67. At all relevant times, Plaintiffs were non-exempt, covered employees under the FLSA.

68. In addition, no exemption under the FLSA applies to Plaintiffs because Plaintiffs do not qualify as exempt under Section 207(k) given Plaintiffs were not “employee[s] in fire

protection activities or . . . employee[s] in law enforcement activities” within the meaning of the FLSA.

69. As a result of Defendant’s corporate policy requiring Plaintiffs to record all of their hours worked on the day their shift started, instead of on the days they actually worked, Defendant failed to compensate Plaintiffs at the rate of one and one-half (1.5) times their regular hourly rate each workweek for all hours worked over forty (40) in a workweek in violation of 29 U.S.C. § 207.

70. Plaintiffs are entitled to back wages at a rate of at least one and one-half (1.5) times their regular rate of pay.

71. Defendant’s failure to pay Plaintiffs at the appropriate rate for hours worked in excess of forty (40) per week, despite the fact that, upon information and belief, Defendant knew of its obligations under the law, entitles Plaintiffs to liquidated damages in an amount equal to the amount of unpaid wages under 29 U.S.C. § 216(b), given Defendant cannot show it acted in good faith.

72. The foregoing conduct, as alleged above, constitutes willful violations of the FLSA under 29 U.S.C. § 255(a), permitting the recovery of unpaid wages for up to three (3) years rather than two (2) years.

73. As such, Plaintiffs seek to recover from Defendant the following damages:

- a. Overtime wages due, including the losses to Plaintiffs’ retirement-benefits plans;
- b. Liquidated damages in an equal amount;
- c. Prejudgment interest;
- d. Reasonable attorneys’ fees and costs; and

- e. All other legal and equitable relief as the Court deems just and proper.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Gorrell, on behalf of himself and all those similarly situated, prays that this Honorable Court:

1. Issue an Order certifying this action as a collective action under the FLSA and designate Plaintiff Gorrell as a representative of all those similarly situated under the FLSA collective action;
2. Award Plaintiff Gorrell and all those similarly situated actual damages for all unpaid wages found due to Plaintiff Gorrell and those similarly situated, including losses to Plaintiffs' retirement-benefits plans, and liquidated damages equal in amount, as provided by the FLSA, 29 U.S.C. § 216(b);
3. Award Plaintiff Gorrell and all those similarly situated interest at the statutory rate, pursuant to the FLSA, 29 U.S.C. § 216(b) and consistent with 28 U.S.C. § 1961;
4. Award Plaintiff Gorrell and all those similarly situated attorneys' fees, costs, and disbursements, pursuant to the FLSA, 29 U.S.C. § 216(b); and
5. Award Plaintiff Gorrell and all those similarly situated further legal and equitable relief as this Court deems necessary, just, and proper.

JURY DEMANDED

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff Gorrell hereby demands a trial by jury on all issues so triable.

This 16th day of March, 2021.

OXENDINE BARNES & ASSOCIATES PLLC

By: /s/ Ryan D. Oxendine
Ryan D. Oxendine (NC State Bar # 27595)
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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

STEVEN E. GORRELL, on behalf of himself and all others similarly situated.

(b) County of Residence of First Listed Plaintiff WAKE
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Oxendine Barnes & Associates, PLLC; 6500 Creedmoor Rd., Suite 100, Raleigh, NC 27613; (919) 848-4333

DEFENDANTS

WAKE COUNTY

County of Residence of First Listed Defendant WAKE
(IN U.S. PLAINTIFF CASES ONLY)

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 ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 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)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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. Section 201 et seq.

Brief description of cause:

Defendant failed to pay Plaintiff and others similarly situated wages in accordance with the Fair Labor Standards Act.

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

03/15/2021

SIGNATURE OF ATTORNEY OF RECORD

/s/ Ryan D. Oxendine

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING FEE

JUDGE

MAILED

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.
 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.

Civil Action No. 5:21-CV-00129

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT
for the
Eastern District of North Carolina

STEVE GORRELL, on behalf of others similarly situated)

Plaintiff)

v.)

WAKE COUNTY)

Defendant)

Case No. 5:21-CV-00129

APPEARANCE OF COUNSEL

To: The clerk of court and all parties of record

I am admitted or otherwise authorized to practice in this court, and I appear in this case as counsel for:

PLAINTIFF, STEVE GORRELL

Date: 03/16/2021

/S/ James A. Barnes IV

Attorney's signature

James A. Barnes IV

Printed name and bar number

Oxendine Barnes & Associates, PLLC
6500 Creedmoor Rd., Suite 100
Raleigh, NC 27613

Address

jim@oxendinebarnes.com

E-mail address

(919) 848-4333

Telephone number

(919) 848-4707

FAX number

Print

Save As...

Reset

UNITED STATES DISTRICT COURT
for the
Eastern District of North Carolina

STEVE GORRELL, on behalf of others similarly situate)

Plaintiff)

v.)

WAKE COUNTY)

Defendant)

Case No. 5:21-CV-00129

APPEARANCE OF COUNSEL

To: The clerk of court and all parties of record

I am admitted or otherwise authorized to practice in this court, and I appear in this case as counsel for:

PLAINTIFF, STEVE GORRELL

Date: 03/16/2021

/S/ Ryan D. Oxendine

Attorney's signature

Ryan D. Oxendine

Printed name and bar number

Oxendine Barnes & Associates, PLLC
6500 Creedmoor Rd., Suite 100
Raleigh, NC 27613

Address

jim@oxendinebarnes.com

E-mail address

(919) 848-4333

Telephone number

(919) 848-4707

FAX number

Print

Save As...

Reset

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
Case No. 5:21-CV-00129**

STEVE E. GORRELL, on behalf of himself and all others similarly situated)
)
Plaintiff(s),)
)
vs)
)
WAKE COUNTY)
)
Defendant(s).)

**DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER ENTITIES WITH A
DIRECT FINANCIAL INTEREST IN LITIGATION**

Pursuant to Fed.R.Civ.P. 7.1 and Local Civil Rule 7.3, or Fed.R.Crim.P. 12.4 and Local Criminal Rule 12.3,

Steve Gorrell who is Plaintiff,
(name of party) (plaintiff/defendant/other:_____)

makes the following disclosure:

1. Is party a publicly held corporation or other publicly held entity?

YES ☐

NO ☒

2. Does party have any parent corporations?

YES ☐

NO ☒

If yes, identify all parent corporation, including grandparent and great-grandparent corporations:

3. Is 10% or more of the stock of a party owned by a publicly held corporation or other publicly held entity?

YES ☐

NO ☒

If yes, identify all such owners:

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation (Local Civil Rule 7.3 or Local Criminal Rule 12.3)?

YES ☒

NO ☐

If yes, identify entity and nature of interest:

Defendant is the public body of Wake County, North Carolina.

5. Is party a trade association?

YES ☐

NO ☒

If yes, identify all members of the association, their parent corporations, and any publicly held companies that own 10% or more of a member's stock:

6. If case arises out of a bankruptcy proceeding, identify any trustee and the members of any creditors's committee:

Signature: /s/ Ryan D. Oxendine

Date: 03/16/2021

Finalize Form

Reset Form

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

STEVEN E. GORRELL, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

WAKE COUNTY,

Defendant.

CA No. 5:21-CV-00129

**NOTICE OF FILING OF CONSENT TO
SUE AS NAMED PLAINTIFF**

Plaintiff Steven E. Gorrell (“Plaintiff Gorrell”), by and through counsel, hereby files a
Consent to File Suit as Named Plaintiff in the above-captioned action.

This 16th day of March, 2021.

OXENDINE BARNES & ASSOCIATES PLLC

By: /s/ Ryan D. Oxendine
Ryan D. Oxendine (NC State Bar # 27595)
James A. Barnes IV (NC State Bar # 33356)
6500 Creedmoor Rd., Suite 100
Raleigh, NC 27613
Telephone: 919-848-4333
Fax: 919-848-4707
ryan@oxendinebarnes.com
jim@oxendinebarnes.com
Attorneys for Plaintiffs

CONSENT TO FILE SUIT AS PLAINTIFF

TO: CLERK OF THE COURT AND COUNSEL OF RECORD

I, Steven E. Gorrell, state the following:

1. I am over eighteen (18) years of age and competent to give the following consent in this matter.

2. I am employed by Wake County Department of Emergency Medical Services located in Wake County, North Carolina. I was employed as a paramedic from approximately 2006 to 2015 and from 2020 to present. I was also employed as a field training officer from approximately 2015 to 2020.

3. I believe I have not been paid for all compensable time that I have worked, including overtime.

4. I hereby consent and agree to be a named Plaintiff in this wage and hour action against Wake County Department of Emergency Medical Services under the Fair Labor Standards Act for failure to pay for all hours worked, including overtime compensation, and to be bound by any settlement of the case or adjudication by the Court where the suit is brought.

5. I understand that a lawsuit is being brought to recover from my employer compensation for unpaid wages and unpaid overtime. I understand that the suit will be brought pursuant to federal law and/or state law.

6. I choose to be represented by Oxendine Barnes & Associates PLLC, and other lawyers they may choose to associate with in this matter.

7. I authorize my attorneys to take any steps necessary to pursue my claims, including filing the lawsuit.

I swear or affirm that the foregoing statements are true to the best of my knowledge, information, and belief.

Completed by (Print Name): Steven E Gorrell
Signature: Steven E Gorrell
Date: 2/24/2021
Address: 1016 Northcliff Dr
Raleigh NC 27609
Telephone: (919) 609-3892