

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Heather Nicole Davis
Plaintiff

vs,

Jasper County

Defendant

CASE NO.: 9:21-cv-03964-BHH

COMPLAINT
(Jury Trial Requested)

The Plaintiff, complaining of the Defendant, would show unto this Honorable Court as follows:

JURISDICTION AND VENUE

1. The Plaintiff, Heather Nicole Davis, is a citizen and resident of Chatham County, Georgia.
2. The Defendant is a governmental entity existing under the laws of the State of South Carolina and conducts business in Jasper County, South Carolina which is within this judicial district.
3. This suit is brought and jurisdiction lies pursuant to §216(b) of the Fair Labor Standards Act of 1938, 29 U.S.C. §201, *et seq.* (“FLSA”).
4. This court has jurisdiction to hear and determine this matter pursuant to 28 U.S.C. §1331 (federal question).
5. All of the events or omissions giving rise to this claim occurred in this judicial district. Venue is proper in this Court pursuant to 28 U.S.C. §1391.
6. Therefore, the parties, subject matter, and all things hereinafter alleged are within the jurisdiction of this Court.

STATEMENT OF FACTS

7. The Plaintiff began working for the Defendant through Jasper County Fire-Rescue for the first time in 2013 and after a brief hiatus, resumed employment with Defendant as a paramedic in 2017.
8. At all times relevant to this Complaint, the Plaintiff was efficient and effective in her work.

9. Because the agency of Defendant at issue is classified as a “Fire-Rescue” department, it is eligible to receive an exemption to the standard 40-hour work week known as the “207k exemption” or the “firefighter exemption” of the FLSA.

10. The “firefighter exemption” allows public agencies to pay fire-based personnel straight time (as opposed to overtime) up to 53 hours per week, instead of the standard 40 hours per week for non-fire personnel.

11. Defendant opted to exercise this exemption but paid all employees of Jasper County Fire-Rescue based on a 53 hour work week, regardless of status.

12. This results in non-fire personnel, such as the Plaintiff, being shorted rightfully owed overtime wages.

13. The Defendant has therefore failed to pay the Plaintiff overtime wages for all hours worked in excess of forty (40) per week.

FOR A FIRST CAUSE OF ACTION
Violation of Fair Labor Standards Act

14. The Plaintiff repeats and reiterates the foregoing allegations as though repeated herein verbatim.

15. The Plaintiff worked for the Defendant and accrued earned wages and overtime pay. As set forth above, the Defendant has failed and continues to fail to pay the wages owed to the Plaintiff in violation of the FLSA.

16. As a direct and proximate result of the acts, omissions and practices of the Defendant, the Plaintiff has sustained a loss of income and wages.

17. As a direct and proximate result of the acts, omissions and practices of the Defendant, the Plaintiff is informed and believes she is entitled to an award of damages, liquidated damages, prejudgment interest, costs, legal fees, and any other damages to which she may be entitled as determined by the trier of fact.

RELIEF REQUESTED

Plaintiff requests a judgment by this Court against Defendant as follows:

1. Judgment in favor of the Plaintiff and against Defendant for all causes of action;
2. An award in favor of the Plaintiff for back pay and interest thereon;
3. An award in favor of the Plaintiff for liquidated damages in an amount to be determined at the trial of this matter;

4. An award in favor of the Plaintiff for attorney's fees, litigation expenses, prejudgment interest, and the costs of this action; and
5. For such other and further relief as this Court deems just, proper and allowable by statute, case law or otherwise.

WIGGER LAW FIRM, INC.

s/Emily Hanewicz Tong

Emily Hanewicz Tong (Fed. I.D. #12177)

Attorney for Plaintiff

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December 7, 2021