

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION**

JOSHUA DEW)	
)	
Individually, and on Behalf of All Others Similarly Situated,)	Case No. _____
)	Collective Action Complaint
Plaintiff,)	
)	
v.)	
)	
CORECIVIC, INC.,)	
)	
A Maryland Corporation)	
)	
Defendant.)	
_____)	

COLLECTIVE ACTION COMPLAINT

Defendant CORECIVIC, INC., improperly forced Plaintiff and others similarly situated, to work “off the clock” when arriving to and returning from work. As a result, Plaintiff and potential class members have not been paid accurately for the time they worked, resulting in substantially less overtime pay to these workers. Plaintiff Joshua Dew, on behalf of himself and all others similarly situated, known and unknown, through the undersigned, files this Complaint against CORECIVIC, INC., (“Defendant”), and state as follows:

NATURE OF THE ACTION

1. This lawsuit arises under the Fair Labor Standards Act, 29 U.S.C. §§201, *et seq.* (“FLSA”) for Defendant’s failure to pay Plaintiff and similarly situated individuals all earned overtime wages, and failure to compensate Plaintiffs and other similarly-situated persons for all time worked.

JURISDICTION AND VENUE

2. This court has subject matter jurisdiction in this matter because Plaintiff bring his FLSA overtime claims on his own behalf and on behalf of others similarly situated as a collective action pursuant to 29 U.S.C. §216(b).

3. The state of Maryland has personal jurisdiction in this matter because Defendant is incorporated under the laws of this State.

4. Venue is proper in the District of Maryland because Defendant corporation is incorporated in this state, and therefore a resident of this state, susceptible to suit in this venue.

PARTIES

5. Named Plaintiff Joshua Dew resides in Crawford County, Pennsylvania. Plaintiff worked for Defendant within the past three years.

6. Potential Plaintiffs (referred to as “FLSA Class Members”) are similarly situated individuals who were employed or are currently employed by Defendant across the country as correctional officers, prison guards, or other similarly titled positions, during the statutory period. FLSA Class Members all shared similar job tasks, job responsibilities, compensation plans, job descriptions, job titles, and were all classified as not exempt from overtime.

7. Defendant is a public corporation organized under the laws of Maryland and may be served with process through its registered agent The Corporation Trust Incorporated, 2405 York Road, Suite 201, Lutherville Timonium, Maryland, 21093-2264.

COVERAGE

8. At all material times, Defendant has been an employer within the meaning of 3(d) of the FLSA. 29 U.S.C. § 203(d).

9. At all material times, Defendant has been an enterprise or enterprise in commerce or in the production of goods for commerce within the meaning of §203(s)(1) of the FLSA because Defendant has had and continue to have employees engaged in interstate commerce. 29 U.S.C. § 203(s)(1).

10. At all material times, Plaintiff and the FLSA Class Members were/are employees engaged in commerce or the production of goods for commerce as required by 29 U.S.C. § 207.

11. Furthermore, Defendant has an annual gross business volume of not less than \$500,000.

FACTUAL ALLEGATIONS

12. Plaintiff Joshua Dew worked as an hourly, non-exempt, correctional officer for Defendant at its correctional facility in Conneaut, Ohio from 2014 to October 2016.

13. Defendant is a company that provides private prison services across the U.S. In fact, Defendant manages more than 65 state and federal correctional and detention facilities with a capacity of more than 90,000 beds in 19 states and the District of Columbia. Defendant employs thousands of correctional officers nationwide to service these facilities.

14. The core job duty of the correctional officers is to manage and oversee the inmate population at these centers.

15. Given the nature of the business, Defendant's facilities are secured by locked doors and metal detectors.

16. The correctional officers wear a uniform and are equipped with handcuffs, pepper spray, and radio.

17. Plaintiff and the FLSA Class Members worked as correctional officers for Defendant.

18. They were classified as non-exempt and paid an hourly rate.

19. When they worked more than forty hours in a workweek, they were entitled to overtime pay.

20. Unfortunately, Defendant set up a pay structure that was designed to deny Plaintiff and the FLSA Class Members compensation for all hours worked.

21. In particular, before Plaintiff and the FLSA Class Members were allowed to clock-in and record their time for purposes of being paid, they were required to walk through a metal detector and several security doors. The same metal detector that the general public used was the same metal detector that Plaintiff and the FLSA Class Members were required to use.

22. Usually when the Plaintiff and FLSA Class Members reported to their shifts, there were long lines formed through the metal detector, through the security doors, and into the briefing room. Plaintiff and the FLSA Class Members stand in line with members of the general population.

23. Afterward, Plaintiff and the FLSA Class Members were required to wait in line at a separate equipment booth to be assigned their pepper spray.

24. After being assigned their pepper spray, they then have to attend a pre-shift briefing in the “briefing room.” This briefing discusses what occurred during the prior shift, any new policies, and an update on the current proceedings at the facility. The pre-shift brief is conducted by the assigned captain for the shift. After the briefing is over, Plaintiff and the FLSA Class Members were then allowed to clock-in and begin their shift. The pre-shift briefing lasted approximately 15-30 minutes on average.

25. Plaintiff and the FLSA Class Members spent approximately 30 to 45 minutes on average standing in lines before getting to the briefing room.

26. The pre-shift activities identified above are not incidental activities for the Plaintiff and FLSA Class Members, this time is integral and indispensable to their principal activity and is compensable.

27. Although Defendant employed electronic “clocking in” technology, this technology was not made accessible to the Plaintiff and FLSA Class Members before they reached the “briefing room.”

28. Rather than place the time clock at the entrance to the facility for the Plaintiff and FLSA Class Members to use or even after entering the security doors, Defendant placed the time clock inside its “briefing room” so that the Plaintiff and FLSA Class Members could only clock in after completing substantial pre-shift work.

29. After their shift was over and they had clocked out, the Plaintiff and FLSA Class Members had to stand in line to return their pepper spray. They also had to walk through the security lines before exiting the building.

30. Due to the substantial pre-shift and post-shift work, the Plaintiff and FLSA Class Members were not paid for all time worked each day.

31. The Plaintiff and the FLSA Class Members routinely and consistently worked over 40 hours in a week while performing their duties for Defendant.

32. Defendant knew, or showed reckless disregard for whether Plaintiff and the FLSA Class Members were entitled to be paid for all hours worked. In fact, Defendant knew the requirement to pay overtime to Plaintiff and FLSA Class Members but intentionally chose not to do so.

COLLECTIVE ACTION ALLEGATIONS

33. Plaintiff incorporates by reference the allegations in the preceding paragraphs.

34. Plaintiff has actual knowledge that the FLSA Class Members have also been denied proper overtime pay for hours worked over forty (40) hours in a workweek because of Defendant's scheme to force Plaintiff off the clock.

35. Plaintiff's knowledge is based on his personal work experience and through communications with other workers.

36. Other workers similarly situated to Plaintiff throughout the United States were also not paid the correct amount of overtime when Defendant's "off the clock" scheme caused them to lose one hour of paid work every day and caused their overtime calculations to drop.

37. Although Defendant permitted and/or required FLSA potential Plaintiffs to work more than forty (40) hours in a workweek, Defendant denied them full compensation for their hours worked over forty (40) through this improper policy of discounting their time.

38. Potential Plaintiffs are not exempt from receiving overtime pay under the FLSA.

39. As such, FLSA potential Plaintiffs are similar to Plaintiff in terms of relevant job duties, pay structure, and the denial of overtime pay.

40. Defendant's failure to pay overtime compensation at the rates required by the FLSA results from generally applicable policies or practices and does not depend on the personal circumstances of any potential Plaintiff.

41. The experiences of Plaintiff, with respect to his pay, hours, and duties are typical of the experiences of the similarly situated potential Plaintiffs.

42. The specific job titles or precise job responsibilities of each FLSA potential Plaintiff does not prevent collective treatment.

43. Although the exact amount of damages may vary among the FLSA Class Members, the damages for the FLSA Class Members can be easily calculated by a simple formula. The claims of

all FLSA Class Members arise from a common nucleus of facts. Liability is based on a systematic course of wrongful conduct by Defendant that caused harm to all FLSA Class Members.

44. As such, the class of similarly situated Plaintiffs for the FLSA Class is properly defined as follows:

All current and former Correctional Officers, and all employees in substantially similar positions, classified as non-exempt during the three-year period before the filing of this Complaint to the present.

COUNT ONE: VIOLATION OF 29 U.S.C. § 207

45. Plaintiff incorporates all allegations contained in the foregoing paragraphs.

46. Defendant's practice of failing to pay Plaintiff time-and-a-half for all hours worked more than forty (40) per workweek violates the FLSA. 29 U.S.C. § 207.

47. None of the exemptions provided by the FLSA regulating the duty of employers to pay overtime at a rate not less than one and one-half times the regular rate at which its employees are paid are applicable to Defendant, Plaintiff, or the FLSA potential Plaintiffs (putative Class Members).

DAMAGES SOUGHT

41. Plaintiff and the FLSA Class Members (potential Plaintiffs) are entitled to recover their unpaid overtime compensation. 29 U.S.C. §§ 207, 216.

42. Plaintiff and the FLSA Class Members (potential Plaintiffs) are entitled to an amount equal to all of their unpaid wages as liquidated damages. 29 U.S.C. § 216(b).

43. Plaintiff and the FLSA Class Members (potential Plaintiffs) are entitled to recover attorney's fees and costs. 29 U.S.C. § 216(b).

PRAYER FOR RELIEF

44. For these reasons, Plaintiff, on behalf of himself and the FLSA Class Members (potential plaintiffs), respectfully requests that judgment be entered in their favor awarding them the following:

- a. Overtime compensation for all hours worked over forty in a workweek at the applicable time-and-a-half rate;
- b. Liquidated damages in an amount equal to their unpaid overtime as allowed under the FLSA;
- c. Reasonable attorney's fees, costs, and expenses of this action as provided by the FLSA; and
- d. Such other and further relief to which Plaintiff and FLSA Class Members may be entitled, at law or in equity.

Respectfully submitted,

KENNEDY HODGES, L.L.P.

By: /s/ Don J. Foty

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Attorneys for Plaintiff and Class Members

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

Joshua Dew, Individually, and on Behalf of All Others Similarly Situated

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

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

Wyly & Cook, Kelly E. Cook, 4101 Washington Avenue, 2nd Floor Houston, Texas 77007; 713-236-8330

DEFENDANTS

CoreCivic, Inc.

County of Residence of First Listed Defendant (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, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 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)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, etc.

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, 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. § 201 et. seq. Brief description of cause: Defendant violated the law in not paying overtime correctly.

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 05/24/2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Kelly E. Cook

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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 the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- 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. When the petition for removal is granted, check this box.
- 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.

CONSENT FORM

1. I consent and agree to pursue my claims for unpaid overtime and/or minimum wages through the lawsuit filed against my employer.
2. I understand that this lawsuit is brought under the Fair Labor Standards Act and/or state wage and hour laws. I hereby consent, agree and opt-in to become a plaintiff herein and be bound by any judgment by the Court or any settlement of this action.
3. I intend to pursue my claim individually, unless and until the court or parties certify this case as a collective or class action. If someone else serves as the class representative(s), then I designate the class representative(s) as my agent(s) to make decisions on my behalf concerning the litigation, the method and manner of conducting the litigation, the entering of an agreement with Plaintiff's counsel concerning fees and costs, the entering into a settlement agreement with my employer, and all other matters pertaining to this action.
4. In the event the case is certified and then decertified, I authorize Plaintiff's counsel to use this Consent Form to re-file my claims in a separate or related action against my employer.

Employer:

CoreCivic

Signature:


Joshua Dew (Feb 14, 2018)

Date: Feb 14, 2018

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [CoreCivic Correctional Officer Sues Over 'Substantial' Pre-Shift Off-the-Clock Work](#)
